

May 31, 1995

STATUTORY PROVISIONS

An act to amend Section 19213 of the Business and Professions Code, to amend Section 1250.310 of the Code of Civil Procedure, to amend Section 14074 of the Corporations Code, to amend Sections 17910.1, 17911.2, 17911.3, 17911.4, 17911.5, 17911.6, 17912, 17912.2, 41304, and 51771 of, and to repeal Section 17912.1 of, the Education Code, to amend Sections 32321, 32322, 32711, 32909, 32942, 32952, and 32955 of, and to repeal Sections 32208 and 32940 of, the Financial Code, to amend Sections 9100 and 9101 of the Fish and Game Code, to amend Sections 4217.15, 8455, 11552, 11553, 11553.5, 11554, 12802.5, 12805, 14450, 15346.3, 15363.6, 15364.21, 15365.12, 15377, 15814.22, 15814.23, 15814.25, 15814.30, 15814.34, 51206, 51207, 51237.5, 51245, 51246, 51249, 51253, 51283, 51284, 51291, 51294, 51294.1, 65570, 66645, and 66646 of the Government Code, to amend Sections 18926, 18949.4, 25651, 39660.5, 40448.5, 42314.1, 43803, 44011.6, and 53113 of the Health and Safety Code, to amend Sections 600, 601, 2002, 2002.5, 2003, 3001, 3002, 3003, 3277, 3319, 3419, 3808, 3810, 3822, 3822.1, 3822.2, 4799.16, 6201, 6815.2, 9017, 9018, 14584, 21080, 21151.1, 26002, 26003, 26004, 30264, 30265.5, 30404, 30413, and 36300 of, to amend the heading of Chapter 2 (commencing with Section 600) of Division 1 of, to add Sections 602 and 603.05 to, to repeal Sections 2010, 3704, 3705, 3706, and 3805.5 of, and to repeal and add Division 15 (commencing with Section 25000)



of, the Public Resources Code, to amend Sections 701.1, 739.3, 785, 1822, 9202, and 9502 of the Public Utilities Code, to amend Sections 6480.1, 17052.11, 23603, and 40182 of the Revenue and Taxation Code, and to amend Section 5062 of the Vehicle Code, relating to energy resources.

LEGISLATIVE COUNSEL'S DIGEST

Governor's Reorganization Plan No. 2 State government
reorganization: energy resources.

Existing law establishes the Department of Conservation and the State Energy Resources Conservation and Development Commission.

Under existing law, the California Energy Extension Service is established in the Office of Planning and Research.

This reorganization plan would rename the department to be the Department of Energy and Conservation, abolish the commission, create the State Energy Facilities Siting Board, abolish the California Energy Extension Service of the office, and create the California Energy Extension Service in the Department of Energy and Conservation.

The reorganization plan would transfer the functions of the former commission with regard to energy facility and site certification to the new board and transfer the remaining functions of the former commission to the renamed department.

The functions of the former California Energy Extension Service of the office would be transferred to the California Energy Extension Service of the renamed department.

The reorganization plan would specify related matters. The reorganization plan would take effect on January 1, 1996.

1 SECTION 1. Section 19213 of the Business and
2 Professions Code is amended to read:

3 19213. The bureau may monitor compliance with all
4 insulation standards, including those adopted by the
5 ~~Energy Resources Conservation and Development~~
6 ~~Commission~~ *Department of Energy and Conservation*,
7 pursuant to Section ~~25402~~ 25204 of the Public Resources
8 Code, by conducting periodic inspections with its own



1 personnel, or by requiring inspections conducted by an
2 approved independent third party laboratory, of
3 manufacturers, distributors, or retailers of insulation
4 material sold within the state in order to determine their
5 compliance with this article. The bureau shall annually
6 test all categories of insulation products for which
7 standards have been adopted. The bureau may require
8 those manufacturers, distributors, or retailers that are
9 inspected and found not in compliance with this article,
10 or any regulation implementing it, to pay such reasonable
11 fees as are necessary to cover the costs of inspections and
12 testing necessary to investigate and enforce compliance
13 by those manufacturers, distributors, and retailers. Fees
14 shall be fixed in an amount not more than the cost of
15 testing and inspection with a minimum fee of two
16 hundred dollars (\$200) for each test or inspection. The
17 bureau may also conduct, or contract with approved
18 independent third party laboratories to conduct,
19 independent performance tests of insulation materials
20 sold in the state, ~~in order~~ to determine compliance with
21 its adopted standards. Where a fee is not paid, the full
22 amount of the assessed fee shall be added to the fee for the
23 renewal of a license. A license shall not be renewed
24 without payment of the renewal fee and all fees for
25 testing and inspection.

26 SEC. 2. Section 1250.310 of the Code of Civil
27 Procedure is amended to read:

28 1250.310. The complaint shall contain all of the
29 following:

30 (a) The names of all plaintiffs and defendants.

31 (b) A description of the property sought to be taken.
32 The description may, but is not required to, indicate the
33 nature or extent of the interest of the defendant in the
34 property.

35 (c) If the plaintiff claims an interest in the property
36 sought to be taken, the nature and extent of such interest.

37 (d) A statement of the right of the plaintiff to take by
38 eminent domain the property described in the
39 complaint. The statement shall include:

1 (1) A general statement of the public use for which the
2 property is to be taken.

3 (2) An allegation of the necessity for the taking as
4 required by Section 1240.030; where the plaintiff is a
5 public entity, a reference to its resolution of necessity;
6 where the plaintiff is a quasi-public entity within the
7 meaning of Section 1245.320, a reference to the resolution
8 adopted pursuant to Article 3 (commencing with Section
9 1245.310) of Chapter 4; where the plaintiff is a nonprofit
10 hospital, a reference to the certificate required by Section
11 1260 of the Health and Safety Code; where the plaintiff is
12 a public utility and relies on a certification of the ~~State~~
13 ~~Energy Resources Conservation and Development~~
14 ~~Commission~~ *State Energy Facilities Siting Board* or a
15 requirement of that ~~commission~~ *board* that development
16 rights be acquired, a reference to ~~such~~ *that* certification
17 or requirement.

18 (3) A reference to the statute that authorizes the
19 plaintiff to acquire the property by eminent domain.
20 Specification of the statutory authority may be in the
21 alternative and may be inconsistent.

22 (e) A map or diagram portraying as far as practicable
23 the property described in the complaint and showing its
24 location in relation to the project for which it is to be
25 taken.

26 SEC. 3. Section 14074 of the Corporations Code is
27 amended to read:

28 14074. The agency shall enter into an agreement with
29 the California Energy Extension Service of the ~~Office of~~
30 ~~Planning and Research~~ *Department of Energy and*
31 *Conservation* to assist small business owners in reducing
32 their energy costs through low interest loans and by
33 providing assistance and information.

34 SEC. 4. Section 17910.1 of the Education Code is
35 amended to read:

36 17910.1. As used in this part, the following terms have
37 the following ~~meanings~~ *meaning*:

38 (a) ~~“Commission” means the State Energy Resources~~
39 ~~Conservation and Development Commission.~~

1 ~~(b)~~ “Superintendent” means the Superintendent of
2 Public Instruction.

3 ~~(c)~~
4 (b) “Fund” means the Katz Schoolbus Fund created
5 pursuant to Section 17911.

6 ~~(d) “Department” means the Department of the~~
7 ~~California Highway Patrol.~~

8 ~~(e)~~
9 (c) “Program” means the Katz Safe Schoolbus Clean
10 Fuel Efficiency Demonstration Program.

11 ~~(f)~~
12 (d) “Schoolbus” means a schoolbus, as defined in
13 Section 545 of the Vehicle Code, which is Type 1 and
14 publicly owned.

15 ~~(g)~~
16 (e) “Local educational agency” means any of the
17 following:

- 18 (1) A school district.
19 (2) A county office of education.
20 (3) A regional occupational program or center.
21 (4) A joint powers agency which operates publicly
22 owned schoolbuses.

23 SEC. 5. Section 17911.2 of the Education Code is
24 amended to read:

25 17911.2. The ~~commission~~ *Department of Energy and*
26 *Conservation* shall determine the local educational
27 agencies that are to receive replacement schoolbuses for
28 participation in the program.

29 SEC. 6. Section 17911.3 of the Education Code is
30 amended to read:

31 17911.3. In determining which candidate schoolbuses
32 will be selected for replacement, the ~~commission~~
33 *Department of Energy and Conservation* shall first, in
34 coordination with the ~~department~~ *Department of the*
35 *California Highway Patrol* and the superintendent,
36 determine which local educational agencies meet the
37 demonstration project criteria.

38 SEC. 7. Section 17911.4 of the Education Code is
39 amended to read:

1 17911.4. All candidate schoolbuses selected by the
2 ~~commission~~ *Department of Energy and Conservation* for
3 replacement shall be inspected by the ~~department~~
4 *Department of the California Highway Patrol* to
5 determine all of the following criteria:

6 (a) The dates of manufacture of the schoolbuses. The
7 schoolbuses shall have been manufactured prior to April
8 1, 1977, and shall have been certified during the prior
9 school year pursuant to Section 2807 of the Vehicle Code.

10 (b) The total accumulated mileage of each candidate
11 schoolbus, as supported by the owner's records and
12 records of the department. Any records maintained by
13 the superintendent may also be considered in
14 determining the true accumulated mileage of a candidate
15 schoolbus. Only mileage accumulated on the candidate
16 schoolbus during usage by the applicant district may be
17 considered by the ~~commission~~ *Department of Energy*
18 *and Conservation* as mileage under this subdivision.

19 (c) The average number of miles per day each
20 candidate schoolbus traveled during the prior school year
21 and to date during the current school year, as evidenced
22 by the owner's records. Any records maintained by the
23 ~~department~~ *Department of the California Highway*
24 *Patrol* or by the superintendent may also be considered
25 in determining the true average daily miles of a candidate
26 schoolbus.

27 (d) The dates of each of the last three annual
28 certifications and the odometer reading for each of those
29 dates.

30 SEC. 8. Section 17911.5 of the Education Code is
31 amended to read:

32 17911.5. (a) Schoolbuses shall be purchased by the
33 Department of General Services pursuant to
34 specifications developed by the ~~commission~~ *Department*
35 *of Energy and Conservation*. Title to any schoolbus
36 purchased by the Department of General Services
37 pursuant to this section shall be in the name of the local
38 educational agency for which the schoolbus was
39 purchased.

(b) Any schoolbus purchased with these funds shall meet all applicable federal motor vehicle safety standards, operate with greater energy efficiency, and produce fewer adverse air emissions than the schoolbus being replaced.

(c) Except as provided in this subdivision, no replacement schoolbus shall exceed the capacity of the schoolbus being replaced, as estimated by the ~~department~~ *Department of the California Highway Patrol*. A local educational agency may use funds from any available source, other than grants received pursuant to this part, to pay that part of the cost of a schoolbus that exceeds the cost of a replacement schoolbus of the same capacity and with the same features as the schoolbus being replaced, as estimated by the Department of General Services.

(d) A replacement schoolbus may be of the same design, configuration, and nonpower-train specifications as the retired schoolbus.

SEC. 9. Section 17911.6 of the Education Code is amended to read:

17911.6. Local educational agencies may submit a statement describing special circumstances which are applicable to a qualified candidate schoolbus, such as the unavailability of repair or replacement parts, or any necessary chassis modifications requiring the approval of the manufacturer of the chassis, as required by regulations of the ~~department~~ *Department of the California Highway Patrol*, with its application for a replacement schoolbus. The ~~commission~~ *Department of Energy and Conservation* may consider those special circumstances in determining the local educational agencies that are to receive replacement schoolbuses.

SEC. 10. Section 17912 of the Education Code is amended to read:

17912. The demonstration program established by this chapter shall be designed and administered by the ~~commission~~ *Department of Energy and Conservation*, with the advice and consultation of the ~~department~~ *Department of the California Highway Patrol* and the

1 superintendent. The ~~commission~~ *Department of Energy*
2 *and Conservation* shall insure that fuel economy and
3 exhaust emissions are monitored as a part of the
4 demonstration, and shall ensure that at least 35 percent
5 of the vehicles are powered by methanol or other
6 low-emission, clean-burning fuels, unless the ~~commission~~
7 *Department of Energy and Conservation* determines,
8 ~~within 18 months of the effective date of this act on or~~
9 ~~before March 27, 1990~~, that the use of these funds for clean
10 burning fuel projects is infeasible. The ~~commission~~
11 *Department of Energy and Conservation* shall, within 30
12 days of making that determination, submit a report to the
13 Legislature explaining its determination with respect to
14 the feasibility or infeasibility of the project. The field
15 demonstration shall be in accordance with State Energy
16 Conservation Program guidelines.

17 SEC. 11. Section 17912.1 of the Education Code is
18 repealed.

19 ~~17912.1. The commission shall transmit a report to the~~
20 ~~Governor and to the Legislature on the demonstration~~
21 ~~program required by this chapter on or before June 30,~~
22 ~~1989.~~

23 SEC. 12. Section 17912.2 of the Education Code is
24 amended to read:

25 17912.2. When a local educational agency accepts a
26 replacement schoolbus, it shall also agree to participate in
27 the demonstration program. That participation shall
28 include maintaining records of mileage and fuel
29 consumption, and reporting that information to the
30 ~~commission~~ *Department of Energy and Conservation* in
31 a timely manner. The ~~commission~~ *Department of Energy*
32 *and Conservation* shall establish a procedure and
33 requirement for participation in the demonstration
34 program. All vehicles acquired under the demonstration
35 program, at a minimum, shall meet all applicable laws
36 and regulations, including those related to their
37 acquisition by school districts, operation, fuel efficiency,
38 air emissions, and safety.

39 SEC. 13. Section 41304 of the Education Code is
40 amended to read:

1 41304. (a) There is appropriated annually from the
2 Driver Training Penalty Assessment Fund to the General
3 Fund in the State Treasury and from the General Fund
4 to the California Energy Extension Service of the ~~Office~~
5 ~~of Planning and Research~~ *Department of Energy and*
6 *Conservation* a sum as necessary to establish and maintain
7 a unit for driver instruction within the State Department
8 of Education as set forth in Section 41904.

9 (b) (1) In addition, subject to Section 41305, there
10 shall be appropriated from the Driver Training Penalty
11 Assessment Fund to the General Fund, then to the State
12 School Fund each fiscal year, the sum the Superintendent
13 of Public Instruction certifies as necessary to reimburse
14 on a quarterly basis for each current fiscal year school
15 districts, county superintendents of schools, the
16 Department of the Youth Authority, and the State
17 Department of Education for the actual cost of
18 instructing pupils in the operation of motor vehicles.

19 (2) The amount shall not exceed ninety-seven dollars
20 (\$97) per pupil instructed in the laboratory phase of
21 driver education in accordance with the rules and
22 regulations of the State Board of Education.

23 (c) Subject to Section 41305, there shall also be
24 appropriated from the Driver Training Penalty
25 Assessment Fund the sum the Superintendent of Public
26 Instruction shall certify as necessary to reimburse on a
27 quarterly basis for each current fiscal year school districts,
28 county superintendents of schools, the Department of the
29 Youth Authority, and the State Department of Education
30 for the actual cost of replacing vehicles and simulators
31 used exclusively in the laboratory phase of driver
32 education programs, but the amount shall not exceed
33 three-fourths of that part of the actual cost of instructing
34 pupils in the laboratory phase of driver education which
35 is: (1) in excess of ninety-seven dollars (\$97) per pupil
36 instructed, and (2) expended by the district, the county
37 superintendent of schools, the Department of the Youth
38 Authority, and the State Department of Education in
39 replacing the vehicles and simulators. Reimbursement
40 for vehicles shall be computed for only that portion of the

1 total mileage used exclusively in the laboratory phase of
2 driver education programs.

3 (d) In addition, subject to Section 41305, there shall be
4 provided from the Petroleum Violation Escrow Account
5 to the General Fund, then to the State School Fund each
6 fiscal year the sum the Superintendent of Public
7 Instruction certifies as necessary to reimburse on a
8 quarterly basis for each current fiscal year school districts,
9 county superintendents of schools, the Department of the
10 Youth Authority, and the State Department of Education
11 for the costs of fitting automobile driver training vehicles
12 with the instrumentation required under Section 51854
13 and to reimburse on a quarterly basis for each current
14 fiscal year school districts for the costs of transferring
15 instrumentation providing instructional information on
16 fuel consumption and vehicle fuel efficiency from one
17 automobile driver training vehicle to another under
18 Section 51854.

19 (e) In addition, subject to Section 41305, there shall be
20 appropriated from the Petroleum Violation Escrow
21 Account to the Driver Training Penalty Assessment Fund
22 and from the Driver Training Penalty Assessment Fund
23 to the General Fund, then to the Superintendent of
24 Public Instruction each fiscal year the sum the
25 Superintendent of Public Instruction certifies as
26 necessary to reimburse on a quarterly basis for each
27 current fiscal year the State Department of Education for
28 the costs of workshops conducted by the department
29 under Section 51854.

30 (f) (1) For purposes of computing reimbursement,
31 whenever a school district, a county superintendent of
32 schools, the Department of the Youth Authority, or the
33 State Department of Education replaces a driver training
34 vehicle or simulator purchased by the district with a
35 vehicle or simulator that is a gift or loan, the purchase
36 price of the new or acquired equipment shall be deemed
37 to be the market value of the vehicle or simulator
38 acquired through a gift or loan.

39 (2) A simulator is any device approved by the State
40 Department of Education to be used in classrooms for

1 purposes of laboratory instruction under simulated
2 driving conditions.

3 SEC. 14. Section 51771 of the Education Code is
4 amended to read:

5 51771. (a) (1) The Superintendent of Public
6 Instruction shall provide for the development of a model
7 energy education program appropriate for use by school
8 districts maintaining kindergarten and grades 1 to 12,
9 inclusive. In developing the model program, the
10 superintendent may utilize or incorporate existing
11 instructional materials in the area of energy and other
12 available resources, so long as the superintendent
13 determines that they are reasonably balanced and
14 objective, or are capable of being used in conjunction
15 with other materials to establish a reasonably balanced
16 and objective perspective. The model program,
17 including the review of the utilization or incorporation of
18 existing instructional materials in the area of energy and
19 other available resources, shall be developed in
20 consultation with the ~~California Energy Commission~~
21 *Department of Energy and Conservation*, and shall be
22 periodically updated to incorporate additional
23 technological changes.

24 (2) The model program shall include an accurate,
25 objective assessment of the nation's current and
26 projected energy supplies and a review of the nation's
27 progress in the development of alternative energy
28 resources, with an emphasis on renewable energy sources
29 such as solar and wind power.

30 (b) The model program shall be designed to provide
31 instruction to pupils regarding all of the following:

32 (1) The finite nature of our nation's current basic
33 energy resources.

34 (2) The effects of energy extraction from
35 nonrenewable resources on the environment.

36 (3) An examination of the balance between consumer
37 demands for energy and the need for energy
38 conservation, as well as the effect of present energy usage
39 on the energy needs of future generations.

1 (4) An examination of policy issues regarding the use
2 of alternative energy resources, including the
3 weatherization of homes and businesses, individual and
4 business energy conservation, the availability of
5 incentives to promote the development of renewable
6 energy resources, and the cost-effectiveness of various
7 types of energy production such as fossil fuels, nuclear
8 energy, solar power, wind power, and geothermal
9 energy.

10 (5) An examination of the viability of energy
11 conservation as an energy resource.

12 SEC. 15. Section 32208 of the Financial Code is
13 repealed.

14 ~~32208. “Energy Commission” means the California~~
15 ~~Energy Resources Conservation and Development~~
16 ~~Commission.~~

17 SEC. 16. Section 32321 of the Financial Code is
18 amended to read:

19 32321. (a) The official members of the board shall be:

20 (1) The Secretary of Trade and Commerce, or ~~his or~~
21 ~~her~~ *the secretary’s* designee.

22 ~~(2) One member of the Energy Commission, selected~~
23 ~~and appointed by the members of the Energy~~
24 ~~Commission~~ *The Director of Energy and Conservation or*
25 *the director’s designee.*

26 (3) The chairperson of the Small Business
27 Development Board or ~~his or her~~ *the chairperson’s*
28 designee.

29 (b) The public members of the board shall be:

30 (1) One member selected and appointed by the
31 Senate Rules Committee.

32 (2) One member selected and appointed by the
33 Speaker of the Assembly.

34 (3) Two members selected and appointed by the
35 Governor as follows:

36 (A) One member with a minimum three years’
37 experience as an owner, partner, officer, or employee of
38 a California-based small business.



1 (B) One member with a minimum three years'
2 experience as an officer or employee of a financial
3 institution.

4 SEC. 17. Section 32322 of the Financial Code is
5 amended to read:

6 32322. (a) The terms of official members of the board
7 shall coincide with their official terms of office, ~~except in~~
8 ~~the case of the member selected and appointed by the~~
9 ~~members of the Energy Commission, who shall serve on~~
10 ~~the board until he or she is no longer a member of the~~
11 ~~Energy Commission or until he or she is replaced by a~~
12 ~~vote of the Energy Commission.~~

13 (b) The public members of the board shall be
14 appointed by the Rules Committee, Speaker, and
15 Governor in such a manner that they shall hold office for
16 overlapping terms. At the time of the appointment of first
17 directors, the first term of the directors appointed by the
18 Rules Committee and Speaker shall be approximately
19 two years. At the time of the appointment of first
20 directors, the first term of the directors appointed by the
21 Governor shall be approximately one year for one
22 director and approximately three years for two directors.
23 Thereafter, the terms of all public directors shall be three
24 years. Directors shall be eligible for reappointment for an
25 unlimited number of terms.

26 (c) A public director's tenure shall continue until his
27 successor has been appointed and has taken his position
28 on the board.

29 (d) In the case of public members, vacancies shall be
30 filled by appointment of the respective appointing
31 authority for the unexpired remainder of the term.

32 SEC. 18. Section 32711 of the Financial Code is
33 amended to read:

34 32711. The division of technical services shall work
35 closely with the ~~alternatives division of the Energy~~
36 ~~Commission~~ *Department of Energy and Conservation*
37 and the federal Department of Energy in gathering
38 information relative to the performance and quality of
39 alternative energy systems.

1 SEC. 19. Section 32909 of the Financial Code is
2 amended to read:

3 32909. “Energy Extension Service” means the
4 *California Energy Extension Service* ~~established in the~~
5 ~~Governor’s office of the Department of Energy and~~
6 *Conservation*.

7 SEC. 20. Section 32940 of the Financial Code is
8 repealed.

9 ~~32940. Guidelines for approving loan applications~~
10 ~~shall be developed by the board on or before May 1, 1987.~~
11 ~~In developing those guidelines, the board shall~~
12 ~~incorporate the recommendations adopted by the~~
13 ~~California Energy Commission with respect to technical~~
14 ~~criteria which are to be applied to projects receiving loans~~
15 ~~from the corporation pursuant to this chapter. The~~
16 ~~corporation may contract with the Energy Commission~~
17 ~~for the purpose of developing technical guidelines.~~

18 SEC. 21. Section 32942 of the Financial Code is
19 amended to read:

20 32942. Loans shall be approved according to criteria
21 established by a credit committee, chaired by the chief
22 financial officer of the corporation or that officer’s
23 designee. The other members of the committee shall be
24 ~~the member of the board an officer or employee of the~~
25 *Department of Energy and Conservation* appointed by
26 the ~~Energy Commission—Director of Energy and~~
27 *Conservation* and the ~~Director—Chief~~ of the *California*
28 *Energy Extension Service*, or their designees.

29 SEC. 22. Section 32952 of the Financial Code is
30 amended to read:

31 32952. The *California Energy Extension Service* shall
32 develop a program to assist small business owners in
33 reducing their energy costs by providing technical
34 assistance and information through local chambers of
35 commerce and business organizations.

36 SEC. 23. Section 32955 of the Financial Code is
37 amended to read:

38 32955. The corporation, ~~California—Energy~~
39 ~~Commission and the Department of Energy and~~
40 *Conservation*, ~~and with the participation of the California~~

1 Energy Extension Service, shall jointly file a report every
2 two years to the Legislature summarizing program
3 activities under this chapter. The first report shall be filed
4 on or before January 1, 1988.

5 SEC. 24. Section 9100 of the Fish and Game Code is
6 amended to read:

7 9100. The California Energy Extension Service of the
8 ~~Office of Planning and Research~~ *Department of Energy*
9 *and Conservation* shall implement a revolving loan fund
10 program to assist low-income fishing fleet operators
11 reduce their energy costs and conserve fuel by providing
12 low-interest loans to those operators.

13 SEC. 25. Section 9101 of the Fish and Game Code is
14 amended to read:

15 9101. Commencing January 1, 1994, and thereafter
16 biennially, the California Energy Extension Service of the
17 ~~Office of Planning and Research~~ *Department of Energy*
18 *and Conservation* shall report to the Legislature on the
19 status of the loan program, including the number and the
20 amounts of loans made, the amount of loans repaid, and
21 a comparison of the ethnic background of the loan
22 recipients with the ethnic background of the low-income
23 fishing fleet operators.

24 SEC. 26. Section 4217.15 of the Government Code is
25 amended to read:

26 4217.15. The public agency may, but is not required
27 to, base the findings required under Sections 4217.12 and
28 4217.13 on projections for electrical and thermal energy
29 rates from the following sources:

30 (a) The public utility which provides thermal or
31 electrical energy to the public agency.

32 (b) The Public Utilities Commission.

33 (c) The ~~State Energy Resources Conservation and~~
34 ~~Development Commission~~ *Department of Energy and*
35 *Conservation*.

36 (d) The projections used by the Department of
37 General Services for evaluating the feasibility of energy
38 conservation facilities at state facilities located within the
39 same public utility service area as the public agency.

1 SEC. 27. Section 8455 of the Government Code is
2 amended to read:

3 8455. (a) Notwithstanding Section 16361, and to the
4 extent permitted by federal law, four million dollars
5 (\$4,000,000) of the funds received by the state from the
6 Petroleum Violation Escrow Account, as defined by
7 Section 155 of the Further Continuing Appropriation Act
8 of 1983 (Public Law 97-377) or other federal law, and
9 consisting of federal overcharge funds available pursuant
10 to court judgments or federal agency orders, that remain
11 after the state has met the disbursement requirements of
12 the Katz Schoolbus Fund, shall be appropriated to the
13 ~~California Energy Commission~~ *Department of Energy*
14 *and Conservation* for the Defense Conversion Matching
15 Grant Program.

16 (b) On and after February 1, 1994, upon order of the
17 Director of Finance, the Controller shall transfer one
18 million five hundred thousand dollars (\$1,500,000),
19 appropriated from the Petroleum Violation Escrow
20 Account to the Trade and Commerce Agency in Chapter
21 1 of the Statutes of 1993 of the 1993-94 First Extraordinary
22 Session of the Legislature to the ~~California Energy~~
23 ~~Commission~~ *Department of Energy and Conservation* for
24 support of the Defense Conversion Matching Grant
25 Program.

26 SEC. 28. Section 11552 of the Government Code is
27 amended to read:

28 11552. (a) Effective January 1, 1988, an annual salary
29 of eighty-five thousand four hundred two dollars
30 (\$85,402) shall be paid to each of the following:

31 ~~(a)~~

32 (1) Superintendent of Banks.

33 ~~(b)~~

34 (2) Commissioner of Corporations.

35 ~~(c)~~

36 (3) Insurance Commissioner.

37 ~~(d)~~

38 (4) Director of Transportation.

39 ~~(e)~~

40 (5) Real Estate Commissioner.



- 1 ~~(f)~~
- 2 (6) Savings and Loan Commissioner.
- 3 ~~(g)~~
- 4 (7) Director of Social Services.
- 5 ~~(h)~~
- 6 (8) Director of Water Resources.
- 7 ~~(i)~~
- 8 (9) Director of Corrections.
- 9 ~~(j)~~
- 10 (10) Director of General Services.
- 11 ~~(k)~~
- 12 (11) Director of Motor Vehicles.
- 13 ~~(l)~~
- 14 (12) Director of the Youth Authority.
- 15 ~~(m)~~
- 16 (13) Executive Officer of the Franchise Tax Board.
- 17 ~~(n)~~
- 18 (14) Director of Employment Development.
- 19 ~~(o)~~
- 20 (15) Director of Alcoholic Beverage Control.
- 21 ~~(p)~~
- 22 (16) Director of Housing and Community
- 23 Development.
- 24 ~~(q)~~
- 25 (17) Director of Alcohol and Drug Abuse.
- 26 ~~(r)~~
- 27 (18) Director of the Office of Statewide Health
- 28 Planning and Development.
- 29 ~~(s)~~
- 30 (19) Director of the Department of Personnel
- 31 Administration.
- 32 ~~(t)~~
- 33 (20) Chairperson and Member of the Board of
- 34 Equalization.
- 35 ~~(u)~~
- 36 (21) Director of Commerce.
- 37 ~~(v)~~
- 38 (22) State Director of Health Services.
- 39 ~~(w)~~
- 40 (23) Director of Mental Health.

1 ~~(x)~~
2 (24) Director of Developmental Services.
3 ~~(y)~~
4 (25) State Public Defender.
5 ~~(z)~~
6 (26) Director of the California State Lottery.
7 ~~(aa)~~
8 (27) Director of Fish and Game.
9 ~~(ab)~~
10 (28) Director of Parks and Recreation.
11 ~~(ac)~~
12 (29) Director of Rehabilitation.
13 ~~(ad)~~
14 (30) Director of Veterans Affairs.
15 ~~(ae)~~
16 (31) Director of Consumer Affairs.
17 ~~(af)~~
18 (32) Director of Forestry and Fire Protection.
19 (33) *Director of Toxic Substances Control.*
20 (34) *Director of Pesticide Regulation.*
21 (35) *Director of Environmental Health Hazard*
22 *Assessment.*
23 (36) *Director of Energy and Conservation.*
24 (b) The annual compensation provided by this section
25 shall be increased in any fiscal year in which a general
26 salary increase is provided for state employees. The
27 amount of the increase provided by this section shall be
28 comparable to, but shall not exceed, the percentage of the
29 general salary increases provided for state employees
30 during that fiscal year.
31 SEC. 29. Section 11553 of the Government Code is
32 amended to read:
33 11553. (a) Effective January 1, 1988, an annual salary
34 of eighty-one thousand six hundred thirty-five dollars
35 (\$81,635) shall be paid to each of the following:
36 ~~(a)~~
37 (1) Chairperson of the Unemployment Insurance
38 Appeals Board.
39 ~~(b)~~

1 (2) Chairperson of the Agricultural Labor Relations
2 Board.

3 ~~(e)~~

4 (3) President of the Public Utilities Commission.

5 ~~(d)~~

6 (4) Chairperson of the Fair Political Practices
7 Commission.

8 ~~(e) Chairperson of the Energy Resources~~
9 ~~Conservation and Development Commission.~~

10 ~~(f)~~

11 (5) Chairperson of the Public Employment Relations
12 Board.

13 ~~(g)~~

14 (6) Chairperson of the Workers' Compensation
15 Appeals Board.

16 ~~(h)~~

17 (7) Administrative Director of the Division of
18 Industrial Accidents.

19 ~~(i)~~

20 (8) Chairperson of the State Water Resources Control
21 Board.

22 ~~(j)~~

23 (9) Chairperson and each member of the California
24 Integrated Waste Management Board.

25 (b) The annual compensation provided by this section
26 shall be increased in any fiscal year in which a general
27 salary increase is provided for state employees. The
28 amount of the increase provided by this section shall be
29 comparable to, but shall not exceed, the percentage of the
30 general salary increases provided for state employees
31 during that fiscal year.

32 SEC. 30. Section 11553.5 of the Government Code is
33 amended to read:

34 11553.5. (a) Effective January 1, 1988, an annual
35 salary of seventy-nine thousand one hundred twenty-two
36 dollars (\$79,122) shall be paid to the following:

37 ~~(a)~~

38 (1) Member of the Agricultural Labor Relations
39 Board.

1 ~~(b) Member of the State Energy Resources~~
2 ~~Conservation and Development Commission.~~
3 ~~(c)~~
4 (2) Member of the Public Utilities Commission.
5 ~~(d)~~
6 (3) Member of the Public Employment Relations
7 Board.
8 ~~(e)~~
9 (4) Member of the Unemployment Insurance Appeals
10 Board.
11 ~~(f)~~
12 (5) Member of the Workers' Compensation Appeals
13 Board.
14 ~~(g)~~
15 (6) Member of the State Water Resources Control
16 Board.
17 (b) The annual compensation provided by this section
18 shall be increased in any fiscal year in which a general
19 salary increase is provided for state employees. The
20 amount of the increase provided by this section shall be
21 comparable to, but shall not exceed, the percentage of the
22 general cost-of-living salary increases provided for state
23 employees during that fiscal year.
24 SEC. 31. Section 11554 of the Government Code is
25 amended to read:
26 11554. (a) Effective January 1, 1988, an annual salary
27 of seventy-five thousand three hundred fifty-four dollars
28 (\$75,354) shall be paid to each of the following:
29 ~~(a) Director of Conservation.~~
30 ~~(b)~~
31 (1) Director of the Department of Economic
32 Opportunity.
33 ~~(c)~~
34 (2) State Architect.
35 ~~(d)~~
36 (3) Director of Fair Employment and Housing.
37 ~~(e)~~
38 (4) Director of the Office of Emergency Services.
39 ~~(f)~~
40 (5) Director of the Department of Aging.



(g)

(6) State Fire Marshal.

(h)

(7) Director of Trade and Commerce.

(b) The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

SEC. 32. Section 12802.5 of the Government Code is amended to read:

12802.5. The Governor may, with respect to the Resources Agency, appoint ~~an Assistant Secretary for Energy Matters who may serve as Secretary for Resources~~ ~~designee on the Energy Resources Conservation and Development Commission~~ and an Assistant Secretary for Coastal Matters who may serve as Secretary for Resources designee on the State Coastal Commission.

SEC. 33. Section 12805 of the Government Code is amended to read:

12805. The Resources Agency consists of the ~~State Air Resources Board, California Coastal Commission, the California Tahoe Conservancy, the Colorado River Board, the State Energy Resources Conservation and Development Commission, the State Water Resources Control Board and each California regional water quality control board, the State Coastal Conservancy, the State Lands Commission, the Division of State Lands, and the following departments: Boating and Waterways, Energy and Conservation; Fish and Game; Forestry and Fire Protection; Navigation and Ocean Development; Parks and Recreation; and Water Resources.~~

SEC. 34. Section 14450 of the Government Code is amended to read:

14450. The department, in preparing its research and development program, shall consult with other parts of the transportation industry, including the private and public sectors, in order to obtain maximum input

1 designed to develop a balanced multimodal research and
2 development program. The department shall also consult
3 with affected state agencies, including the Department of
4 Motor Vehicles, the State Air Resources Board, the ~~State~~
5 ~~Energy Resources Conservation and Development~~
6 ~~Commission~~ *Department of Energy and Conservation*,
7 and the Department of the California Highway Patrol.

8 SEC. 35. Section 15346.3 of the Government Code is
9 amended to read:

10 15346.3. The California Defense Conversion Council
11 shall consist of the following members, who shall be
12 appointed as provided in this section and shall reflect, as
13 much as possible, the population of the state with regard
14 to sex, race, ethnic background, and geographic
15 distribution:

16 (a) The Governor shall have nine appointees which
17 may include, but are not limited to, the following:

18 (1) The Secretary of the Trade and Commerce
19 Agency.

20 (2) The Secretary ~~of the~~ *for* Environmental Protection
21 Agency.

22 (3) The Director of the Employment Development
23 Department.

24 (4) The Director of the Office of Planning and
25 Research.

26 (5) The Director of ~~the~~ Energy ~~Commission~~ *and*
27 *Conservation*.

28 (6) The Director of Transportation.

29 (7) The Director of the Employment Training Panel.

30 (b) The Speaker of the Assembly shall have two
31 appointees which may include, but are not limited to,
32 members representing labor, business, or local
33 government.

34 (c) The Senate Committee on Rules shall have two
35 appointees which may include, but are not limited to,
36 members representing labor, business, or local
37 government.

38 (d) One representative annually nominated to the
39 council from the regional technology alliances in
40 northern California.

(e) One representative annually nominated to the council from the regional technology alliances in southern California.

(f) Nonvoting members including:

(1) The President of the University of California.

(2) The Chancellor of the California State University.

(3) The Chancellor of the California Community Colleges.

(4) The Speaker of the Assembly or his or her designee.

(5) The President pro Tempore of the Senate or his or her designee.

(6) Members of regional technology alliances not represented under subdivisions (d) and (e).

SEC. 36. Section 15363.6 of the Government Code is amended to read:

15363.6. The secretary shall have the following responsibilities:

(a) Coordinating the various trade, investment, and tourism activities of the California State World Trade Commission and the Department of Commerce to ensure that the resources that the state has invested in these programs are used effectively and efficiently and that they foster the state's reputation as a source of high quality, cost-effective goods and services including tourism destinations.

(b) Coordinating, on behalf of the Governor, the use of the overseas trade offices by any state export program not under the California State World Trade Commission, such as those that are operated by the Department of Food and Agriculture and the ~~California—Energy Commission~~ *Department of Energy and Conservation*, and by any state agency which may have occasion to need the services of the overseas trade offices in carrying out that agency's official duties and responsibilities.

(c) Reporting to the Governor and the Legislature on an annual basis about the policies, plans, budgeting, and accomplishments of the agency and its programs.

(d) In his or her capacity as a member of the Governor's cabinet, coordinating the development of a

1 state policy on economic development and trade, and
2 advising the Governor and members of the cabinet of the
3 potential impacts of regulations on the state's business,
4 economy, and job base. The initial policy and
5 implementation strategy shall be included as a part of the
6 secretary's first annual report to the Governor and the
7 Legislature following enactment of this chapter. Each
8 year thereafter, the secretary's annual report shall discuss
9 economic development and trade policies including
10 accomplishments and needed modifications.

11 (e) Evaluating, at his or her discretion, the findings
12 and determinations required of any state agency which
13 proposes to adopt regulations under Article 5
14 (commencing with Section 11346) of Chapter 3.5 of Part
15 1, including economic and cost impacts, reporting
16 requirements, and alternatives analyses. The secretary
17 shall, during the written comment period specified
18 pursuant to paragraph (9) of subdivision (a) of Section
19 11346.5, submit written comments into the record of the
20 agency which proposes to adopt those regulations in those
21 instances when the secretary determines that the
22 contents of the notice of the proposed action or the
23 supporting analysis and initial statement of reasons do not
24 sufficiently support the findings and determinations of
25 the agency. The secretary may, at his or her discretion,
26 comment on other aspects of the proposed action that
27 significantly impact the state's business, industry,
28 economy, or job base, including the cumulative effects of
29 the proposed action that significantly impact the state's
30 business, industry, economy, or job base, including the
31 cumulative impacts of the proposed action considered
32 along with regulatory requirements in place at the
33 federal, state, and local levels.

34 SEC. 37. Section 15364.21 of the Government Code is
35 amended to read:

36 15364.21. The service shall do all of the following
37 consistent with federal law and national and state policy:

38 (a) Consult with and coordinate all state government
39 agencies with duties pertaining to international matters,
40 including, but not limited to, the California State World



1 Trade Commission, the State Offices of Trade and
2 Investment, the ~~State Energy Resources Conservation~~
3 ~~and Development Commission~~ *Department of Energy*
4 *and Conservation*, and the Department of Food and
5 Agriculture, ~~in order to implement the provisions of this~~
6 article.

7 (b) Promote rapid global commercialization of
8 California products and technologies by identifying and
9 developing product and capital market linkages between
10 California universities and colleges (including
11 community colleges), private sector entities engaged in
12 public/private partnerships with these universities and
13 colleges, and their global private and public counterparts.

14 (c) Contribute to the development of immediate and
15 long-term policy strategies, in close consultation with the
16 California Council on Science and Technology, the
17 President of the University of California, the Chancellor
18 of the California Community Colleges, and the
19 Chancellor of the California State University, with
20 attention to stimulating California's economy towards
21 meeting economic adjustment needs and fulfilling
22 California's yet untapped potential in the six areas of
23 economic development as follows:

- 24 (1) Employment generation.
25 (2) Education and human resource development.
26 (3) Export development.
27 (4) Environmental remediation and preservation.
28 (5) Entrepreneurship.
29 (6) Equal access to knowledge.

30 (d) Facilitate global market access for California
31 enterprises by studying the feasibility of, and
32 coordinating the development of, a statewide interactive
33 electronic data base and network utilizing appropriate
34 technologies such as CD-ROM (compact disk-read only
35 memory) and on-line, recording global market needs and
36 resources identified through various state and other
37 sources, and linking these needs with the needs and
38 capabilities of subscribing California enterprises. In
39 studying the feasibility of, and coordinating the
40 development of, the data base and network, the service

1 shall work closely with the President of the University of
2 California, the Chancellor of the California Community
3 Colleges, and the Chancellor of the California State
4 University, and with other California public and private
5 universities and colleges, state and federal government
6 agencies, and industry, including, but not limited to, the
7 following:

8 (1) The California Education Research and
9 Federation Network headquartered at the San Diego
10 Supercomputer Center, and affiliates, including the
11 California Internet Federation, the Federation of
12 American Research Networks, and the National Research
13 and Education Network.

14 (2) The Automated Trade Lead System project of the
15 California State World Trade Commission, in association
16 with the California State University at Fresno.

17 (3) The Pacific Rim Commercial Exchange Project at
18 the California State University at Sacramento.

19 (4) The MEMEX Institute at the California State
20 University at Chico.

21 (5) The California Community Colleges ED-NET
22 system.

23 (e) Promote access for California enterprises in
24 emerging growth opportunities in developed and
25 developing economies and assist California enterprises in
26 benefiting from the growth of free market forces in
27 developing nations' economies, including selected
28 countries in Asia, Southern Africa, Central America,
29 Latin America, the Caribbean, and Eastern Europe, by
30 doing the following:

31 (1) Providing assistance and information to private
32 enterprises in these countries, and, with the approval of
33 the United States Secretary of State, to their
34 governments.

35 (2) Providing support for and assisting, to the extent
36 practicable, in soliciting private sector or other nonstate
37 support and in-kind contributions on behalf of select
38 teams of academicians, technical specialists, and
39 professionals associated with California universities and
40 colleges (including community colleges) for purposes of



1 conducting extended stays and providing onsite technical
2 assistance in regions and to entities indicated in
3 paragraph (1). The service shall select teams on the
4 merits of their ability to contribute to fulfilling the
5 mandate of the service as stipulated in subdivisions (b) to
6 (h), inclusive. While it is the intent of the Legislature that
7 the selected teams be self-funding or funded by nonstate
8 sources to the extent possible, the service may pay for
9 travel expenses and increases in living expenses incurred
10 by the teams. The service may also provide members of
11 the teams with stipends for reports to the Legislature and
12 Governor documenting the respective teams'
13 contributions to fulfilling the mandate of the service.

14 (3) Providing technical assistance and information to
15 California enterprises, leveraging existing public
16 resources, and utilizing existing delivery systems,
17 including, but not limited to, technical assistance and
18 training networks such as the California Community
19 Colleges Economic Development Network, among
20 others.

21 (4) Identifying and acting as the intermediary
22 between foreign entities and California-based enterprises
23 with products and services reflecting low, intermediate,
24 and advanced technology capabilities, including, but not
25 limited to, the following disciplines: electronics,
26 biosciences, environmental sciences, commodity and
27 specialty agriculture, food processing, computer
28 hardware and software, telecommunications, and other
29 manufacturing sectors.

30 (f) Facilitate the transformation of the technological
31 infrastructure of developing countries in order to
32 generate demand for California exports, including
33 California-based information services and
34 technology-based products, among other related services
35 and products, while meeting the needs of the peoples of
36 developing countries in their pursuit of an improved
37 quality of life.

38 (g) Coordinate and focus existing public and private
39 entities in California towards developing technological
40 collaborations with counterparts throughout the world,

1 with particular attention to Europe, Japan, the newly
2 industrialized countries of Asia, Australia and nearby
3 nations, and Canada, in addition to developing countries,
4 in order to facilitate the export of California-based
5 information services and technology-based products
6 among other related services and products.

7 (h) Develop immediate and long-term policy
8 strategies regarding access to global markets for
9 information services and technology-based products,
10 among other related services and products, with
11 attention to stimulating California's economy towards
12 meeting economic adjustment needs and fulfilling
13 California's yet untapped potential in the six areas of
14 economic development specified in subdivision (c).

15 SEC. 38. Section 15365.12 of the Government Code is
16 amended to read:

17 15365.12. The office shall also do all of the following:

18 (a) Issue a biennial report for inclusion in the
19 commission's biennial report required by Section 15364.7.
20 The report shall include all of the following information:

21 (1) A list of the trade promotional activities and events
22 in which the office has participated and descriptions of
23 the nature of its participation.

24 (2) An accounting of its financial participation in trade
25 promotion activities.

26 (3) An assessment of the export sales and other
27 benefits that have accrued to the state as a result of the
28 state's participation in these events.

29 (b) Submit, at least annually, to the World Trade
30 Commission, a proposed program of trade promotional
31 activities and events for the office. The commission shall
32 have approval authority over the events in which the
33 office proposes to participate, and may appoint a
34 subcommittee or advisory group to assist the commission
35 in determining the approved list of trade promotion
36 events for the office.

37 (c) Coordinate its trade promotional activities with
38 the Department of Food and Agriculture and the ~~State~~
39 ~~Energy Resources Conservation and Development~~
40 ~~Commission in order~~ *Department of Energy and*

1 *Conservation* to avoid duplication of effort and to
2 maximize the effectiveness of the state's participation in
3 these events.

4 SEC. 39. Section 15377 of the Government Code is
5 amended to read:

6 15377. ~~The provisions of this~~ *This* chapter ~~shall~~ *does*
7 not apply to any of the following:

8 (a) Any permit subject to the provisions of Chapter 4.5
9 (commencing with Section 65920) of Division 1 of Title
10 7.

11 (b) Any permit for which the issuing agency can
12 demonstrate that the median time of processing an
13 application for the permit, from receipt of the initial
14 application to the final permit decision, based upon the
15 agency's actual performance during the 12 months
16 immediately preceding the implementation of this
17 chapter did not exceed seven days.

18 (c) Any permit issued by the Public Utilities
19 Commission.

20 (d) Any permit issued by the Franchise Tax Board
21 under Part 10 (commencing with Section 17001), Part
22 10.5 (commencing with Section 19501), or Part 11
23 (commencing with Section 23001) of Division 2 of the
24 Revenue and Taxation Code.

25 (e) Any permit issued by the ~~State Energy Resources~~
26 ~~Conservation and Development Commission~~
27 *Department of Energy and Conservation* or by the *State*
28 *Energy Facilities Siting Board*.

29 (f) Any license or permit issued pursuant to the Fish
30 and Game Code.

31 (g) Any document considered to be a receipt.

32 SEC. 40. Section 15814.22 of the Government Code is
33 amended to read:

34 15814.22. The Department of General Services, in
35 consultation with the ~~California Energy Resources~~
36 ~~Conservation and Development Commission~~
37 *Department of Energy and Conservation* and other state
38 agencies and departments, shall develop a multiyear
39 plan, to be updated biennially, with the goal of exploiting
40 all practicable and cost-effective energy efficiency

1 measures in state facilities. The ~~department~~*Department*
2 *of General Services* shall coordinate plan implementation
3 efforts, and make recommendations to the Governor and
4 the Legislature to achieve energy efficiency goals for
5 state facilities.

6 SEC. 41. Section 15814.23 of the Government Code is
7 amended to read:

8 15814.23. The Department of General Services or
9 each state agency having jurisdiction shall ensure that all
10 new state buildings are designed and constructed to meet
11 at least the minimum energy efficiencies specified in
12 standards adopted by the ~~State Energy Resources~~
13 ~~Conservation and Development Commission~~
14 *Department of Energy and Conservation* pursuant to
15 Section ~~25402~~ 25204 of the Public Resources Code. In the
16 design and construction of new state buildings, the
17 ~~department~~*Department of General Services* or other
18 responsible state agency shall also consider additional
19 state-of-the-art energy efficiency design measures and
20 equipment, beyond those required by the standards, that
21 are cost-effective and feasible.

22 SEC. 42. Section 15814.25 of the Government Code is
23 amended to read:

24 15814.25. (a) Energy conservation measures eligible
25 for financing by kindergarten through grade 12 schools
26 shall be limited to those measures recommended
27 pursuant to an energy audit provided by the ~~State Energy~~
28 ~~Resources Conservation and Development Commission~~
29 *Department of Energy and Conservation* under its
30 existing authority.

31 (b) The ~~State Energy Resources Conservation and~~
32 ~~Development Commission~~ *Department of Energy and*
33 *Conservation* shall, in consultation with the Department
34 of General Services, publish and transmit to the
35 Legislature ~~no~~*not* later than December 31, 1994, a report
36 describing the activities related to financing energy
37 conservation measures at kindergarten through grade 12
38 schools.

39 SEC. 43. Section 15814.30 of the Government Code is
40 amended to read:

1 15814.30. (a) All new public buildings for which
2 construction begins after January 1, 1993, shall be models
3 of energy efficiency and shall be designed, constructed,
4 and equipped with all energy efficiency measures,
5 materials, and devices that are feasible and cost-effective
6 over the life of the building or the life of the energy
7 efficiency measure, whichever is less.

8 (b) In determining which energy efficiency measures,
9 materials, and devices are feasible and cost-effective over
10 the life of the building, the State Architect and the
11 Department of General Services shall consult with the
12 ~~State Energy Resources Conservation and Development~~
13 ~~Commission~~ *Department of Energy and Conservation*.

14 (c) For purposes of this section, “cost-effective” means
15 that savings generated over the life of the building or the
16 life of the energy efficiency measure, whichever is less,
17 shall exceed the cost of purchasing and installing the
18 energy efficiency measures, materials, or devices by not
19 less than 10 percent.

20 SEC. 44. Section 15814.34 of the Government Code is
21 amended to read:

22 15814.34. (a) The Legislature finds and declares all of
23 the following:

24 (1) The state purchases a number of commodities,
25 including, but not limited to, lighting fixtures, heating,
26 ventilation and air-conditioning units, and copiers, that
27 cumulatively account for a significant portion of the
28 energy consumed by state operations.

29 (2) The state can realize significant energy savings
30 and reduced energy costs by purchasing brands or models
31 of commonly used commodities with low life cycle costs.

32 (3) Commodities necessary for state operations may
33 be purchased directly by the state department or agency
34 using the commodity, or may be purchased by the
35 Department of General Services on behalf of other state
36 departments or agencies.

37 (4) ~~In order to~~ *To* increase energy efficiency and
38 reduce costs to the taxpayers of the state, the state should
39 make every reasonable effort to identify and purchase

1 those commodities that have the lowest life cycle cost and
2 meet the operational requirements of the state.

3 (b) The Department of General Services shall, on an
4 ongoing basis, do all of the following:

5 (1) Identify commodities purchased by the
6 department that, individually or on a statewide basis,
7 consume a significant amount of energy.

8 (2) For each commodity identified pursuant to
9 paragraph (1), determine the life cycle cost of the
10 following:

11 (A) The brand or model of the commodity purchased
12 by the department.

13 (B) The brand or model of the commodity that has the
14 lowest life cycle cost, provided it is available for purchase
15 by the state and meets all operational specifications of the
16 state.

17 (3) Consult with the ~~Energy Resources Conservation~~
18 ~~and Development Commission~~ *Department of Energy*
19 *and Conservation* in the development and revision of one
20 or more methods of determining the life cycle costs of
21 commodities.

22 (c) ~~In order to~~ *To* assist other agencies and
23 departments in identifying commodities with the lowest
24 life cycle costs, the Department of General Services shall
25 distribute the following to all state agencies and
26 departments:

27 (1) A list of those commodities with the lowest life
28 cycle costs, as determined pursuant to paragraph (2) of
29 subdivision (b).

30 (2) The method or methods used by the Department
31 of General Services to determine the life cycle costs of
32 commodities.

33 (d) The method or methods used by the Department
34 of General Services to calculate the life cycle costs of
35 commodities shall be designed to be easily understood
36 and used by purchasing agents and other personnel in
37 making purchasing decisions.

38 (e) Notwithstanding any other provision of law, all
39 state agencies and departments shall purchase those
40 commodities identified pursuant to subdivision (b) that

1 have the lowest life cycle costs and that meet the
2 applicable specifications, and shall make every
3 reasonable effort to identify and purchase other
4 commodities with the lowest life cycle costs.

5 (f) “Life cycle cost” for the purposes of this section,
6 means the total cost of purchasing, installing,
7 maintaining, and operating a device or system during its
8 reasonably expected life. It includes, but is not necessarily
9 limited to, capital costs, labor costs, energy costs, and
10 operating and maintenance costs.

11 SEC. 45. Section 51206 of the Government Code is
12 amended to read:

13 51206. The Department of *Energy and* Conservation
14 may meet with and assist local, regional, state, and federal
15 agencies, organizations, landowners, or any other person
16 or entity in the interpretation of this chapter. The
17 department may research, publish, and disseminate
18 information regarding the policies, purposes, procedures,
19 administration, and implementation of this chapter. This
20 section shall be liberally construed to permit the
21 department to advise any interested person or entity
22 regarding this chapter.

23 SEC. 46. Section 51207 of the Government Code is
24 amended to read:

25 51207. (a) On or before May 1 of every other year
26 beginning in 1996, the Department of *Energy and*
27 Conservation shall report to the Legislature regarding
28 the implementation of this chapter by cities and counties.

29 (b) The report shall contain, but not be limited to, the
30 number of acres of land under contract in each category
31 and the number of acres of land which were removed
32 from contract through cancellation, eminent domain,
33 annexation, or nonrenewal.

34 (c) The report shall also contain the following specific
35 information relating to not less than one-third of all cities
36 and counties participating in the Williamson Act
37 program:

38 (1) The number of contract cancellation requests for
39 which notices of hearings were mailed to the Director of
40 *Energy and* Conservation pursuant to Section 51284

1 which were approved by boards or councils during the
2 prior two years or for which approval is still pending by
3 boards or councils.

4 (2) The amount of cancellation fees payable to the
5 county treasurer as deferred taxes and which are
6 required to be transmitted to the Controller pursuant to
7 subdivision (d) of Section 51283 which have not been
8 collected or which remain unpaid.

9 (3) The total number of acres covered by certificates
10 of cancellation of contracts during the previous two years.

11 (4) The number of nonrenewal and withdrawal of
12 renewal notices received pursuant to Section 51245 and
13 the number of expiration notices received pursuant to
14 Section 51246 during the previous two years.

15 (5) The number of acres covered by nonrenewal
16 notices that were not withdrawn and expiration notices
17 during the previous two years.

18 (d) The ~~department~~ *Department of Energy and*
19 *Conservation* may recommend changes to this chapter
20 which would further promote its purposes.

21 (e) The Legislature may, upon request of the
22 department, appropriate funds from the deferred taxes
23 deposited in the General Fund pursuant to subdivision
24 (d) of Section 51283 in an amount sufficient to prepare
25 the report required by this section.

26 SEC. 47. Section 51237.5 of the Government Code is
27 amended to read:

28 51237.5. On or before the first day of September of
29 each year, each city or county in which any agricultural
30 preserve is located shall file with the Director of *Energy*
31 *and Conservation* a map of each city or county and
32 designate thereon all agricultural preserves in existence
33 at the end of the preceding fiscal year.

34 SEC. 48. Section 51245 of the Government Code is
35 amended to read:

36 51245. (a) If either the landowner or the city or
37 county desires in any year not to renew the contract, that
38 party shall serve written notice of nonrenewal of the
39 contract upon the other party in advance of the annual
40 renewal date of the contract. Unless ~~such~~ *that* written

1 notice is served by the landowner at least 90 days prior to
2 the renewal date or by the city or county at least 60 days
3 prior to the renewal date, the contract shall be considered
4 renewed as provided in Section 51244 or ~~Section 51244.5~~.

5 (b) Upon receipt by the owner of a notice from the
6 county or city of nonrenewal, the owner may make a
7 written protest of the notice of nonrenewal. The county
8 or city may, at any time prior to the renewal date,
9 withdraw the notice of nonrenewal. Upon request by the
10 owner, the board or council may authorize the owner to
11 serve a notice of nonrenewal on a portion of the land
12 under a contract.

13 (c) Within 30 days of the receipt of a notice of
14 nonrenewal from a landowner, the service of a notice of
15 nonrenewal upon a landowner, or the withdrawal of a
16 notice of nonrenewal, the city or county shall deliver a
17 copy of the notice or a notice of withdrawal of
18 nonrenewal to the Director of *Energy and Conservation*.

19 ~~No~~

20 (d) ~~Not~~ later than 20 days ~~after~~ *from the date that* a
21 city or county receives a notice of nonrenewal from a
22 landowner, serves a notice of nonrenewal upon a
23 landowner, or withdraws a notice of nonrenewal, the
24 clerk of the board or council, as the case may be, shall
25 record with the county recorder a copy of the notice of
26 nonrenewal or notice of withdrawal of nonrenewal.

27 SEC. 49. Section 51246 of the Government Code is
28 amended to read:

29 51246. (a) If the county or city or the landowner
30 serves notice of intent in any year not to renew the
31 contract, the existing contract shall remain in effect for
32 the balance of the period remaining since the original
33 execution or the last renewal of the contract, as the case
34 may be. Within 30 days of the expiration of the contract,
35 the county or city shall deliver a notice of expiration to the
36 Director of *Energy and Conservation*.

37 (b) No city or county shall enter into a new contract
38 or shall renew an existing contract on or after February
39 28, 1977, with respect to timberland zoned as timberland
40 production. The city or county shall serve notice of its

1 intent not to renew the contract as provided in this
2 section.

3 (c) ~~In order to~~ To meet the minimum acreage
4 requirement of an agricultural preserve pursuant to
5 Section 51230, land formerly within the agricultural
6 preserve which is zoned as timberland production
7 pursuant to Chapter 6.7 (commencing with Section
8 51100) may be taken into account.

9 (d) Notwithstanding any other provision of law,
10 commencing with the lien date for the 1977–78 fiscal year,
11 all timberland within an existing contract which has been
12 nonrenewed as mandated by this section shall be valued
13 ~~according to~~ *in accordance with* Section 423.5 of the
14 Revenue and Taxation Code, succeeding to and including
15 the lien date for the 1981–82 fiscal year. Commencing
16 with the lien date for the 1982–83 fiscal year and on each
17 lien date thereafter, ~~such that~~ timberland shall be valued
18 according to Section 434.5 of the Revenue and Taxation
19 Code.

20 SEC. 50. Section 51249 of the Government Code is
21 amended to read:

22 51249. Within 30 days after a form of contract is first
23 used, the clerk of the board or council shall file with the
24 Director of *Energy and* Conservation a sample copy of
25 each form of contract and any land use restrictions
26 applicable thereto.

27 SEC. 51. Section 51253 of the Government Code is
28 amended to read:

29 51253. Any contract or agreement entered into
30 pursuant to this chapter prior to ~~the 61st day following~~
31 ~~final adjournment of the 1969 Regular Session of the~~
32 ~~Legislature November 10, 1969,~~ may be amended to
33 conform with the provisions of ~~this act as amended at that~~
34 ~~session~~ *Chapter 1372 of the Statutes of 1969* upon the
35 mutual agreement of all parties. Approval of ~~these~~
36 ~~amendments~~ *any such amendment* to a contract by the
37 Director of *Energy and* Conservation shall not be
38 required.

39 SEC. 52. Section 51283 of the Government Code is
40 amended to read:

1 51283. (a) Prior to any action by the board or council
2 giving tentative approval to the cancellation of any
3 contract, the county assessor of the county in which the
4 land is located shall determine the current fair market
5 value of the land as though it were free of the contractual
6 restriction. The assessor shall certify to the board or
7 council the cancellation valuation of the land for the
8 purpose of determining the cancellation fee.

9 (b) Prior to giving tentative approval to the
10 cancellation of any contract, the board or council shall
11 determine and certify to the county auditor the amount
12 of the cancellation fee which the landowner shall pay the
13 county treasurer as deferred taxes upon cancellation.
14 That fee shall be an amount equal to $12\frac{1}{2}$ percent of the
15 cancellation valuation of the property.

16 (c) If it finds that it is in the public interest to do so, the
17 board or council may waive any payment or any portion
18 of a payment by the landowner, or may extend the time
19 for making the payment or a portion of the payment
20 contingent upon the future use made of the land and its
21 economic return to the landowner for a period of time not
22 to exceed the unexpired period of the contract, had it not
23 been canceled, if all of the following occur:

24 (1) The cancellation is caused by an involuntary
25 transfer or change in the use which may be made of the
26 land and the land is not immediately suitable, nor will be
27 immediately used, for a purpose which produces a
28 greater economic return to the owner.

29 (2) The board or council has determined that it is in
30 the best interests of the program to conserve agricultural
31 land use that the payment be either deferred or is not
32 required.

33 (3) The waiver or extension of time is approved by the
34 Secretary of the Resources Agency. The secretary shall
35 approve a waiver or extension of time if the secretary
36 finds that the granting of the waiver or extension of time
37 by the board or council is consistent with the policies of
38 this chapter and that the board or council complied with
39 this article. In evaluating a request for a waiver or
40 extension of time, the secretary shall review the findings

1 of the board or council, the evidence in the record of the
2 board or council, and any other evidence *that* the
3 secretary may receive concerning the cancellation,
4 waiver, or extension of time.

5 (d) The first nine hundred eighty-five thousand
6 dollars (\$985,000) of revenue paid to the Controller
7 pursuant to subdivision (e) in the 1992–93 fiscal year, and
8 any other amount as approved in the final Budget Act for
9 each fiscal year thereafter, shall be deposited in the Soil
10 Conservation Fund, which is continued in existence. The
11 money in the fund is available, when appropriated by the
12 Legislature, for the support of both of the following:

13 (1) The total cost of the farmlands mapping and
14 monitoring program of the Department of *Energy and*
15 Conservation pursuant to Section 65570.

16 (2) The soil conservation program identified in
17 Section 614 of the Public Resources Code.

18 (e) When deferred taxes required by this section are
19 collected, they shall be transmitted by the county
20 treasurer to the Controller and deposited in the General
21 Fund, except as provided in subdivision (d). The funds
22 collected by the county treasurer with respect to each
23 cancellation of a contract shall be transmitted to the
24 Controller within 30 days of the execution of a certificate
25 of cancellation of contract by the board or council, as
26 specified in subdivision (b) of Section 51283.4.

27 ~~(f) This section shall become operative on July 1, 1993.~~

28 SEC. 53. Section 51284 of the Government Code is
29 amended to read:

30 51284. No contract may be canceled until after the
31 city or county has given notice of, and has held, a public
32 hearing on the matter. Notice of the hearing shall be
33 published pursuant to Section 6061 and shall be mailed to
34 every owner of land under contract, any portion of which
35 is situated within one mile of the exterior boundary of the
36 land upon which the contract is proposed to be canceled.
37 In addition, at least 10 working days prior to the hearing,
38 a notice of the hearing and a copy of the landowner's
39 petition shall be mailed to the Director of *Energy and*
40 Conservation. Within 30 days of the tentative cancellation

1 of the contract, the city or county shall publish a notice
2 of its decision, including the date, time, and place of the
3 public hearing, a general explanation of the decision, the
4 findings made pursuant to Section 51282, and a general
5 description, in text or by diagram, of the land under
6 contract, as a display advertisement of at least one-eighth
7 page in at least one newspaper of general circulation
8 within the city or county. In addition, within 30 days of the
9 tentative cancellation of the contract, the city or county
10 shall deliver a copy of the published notice of the decision,
11 as described above, to the Director of *Energy and*
12 *Conservation*. The publication shall be for informational
13 purposes only, and shall create no right, standing, or duty
14 that would otherwise not exist with regard to the
15 cancellation proceedings.

16 SEC. 54. Section 51291 of the Government Code is
17 amended to read:

18 51291. (a) As used in this section, Section 51292, and
19 Section 51295 “public agency” means the state, or any
20 department or agency thereof, and any county, city,
21 school district, or other local public district, agency, or
22 entity; and “person” means any person authorized to
23 acquire property by eminent domain.

24 (b) (1) Whenever it appears that land within an
25 agricultural preserve may be required by a public agency
26 or person for a public use, the public agency or person
27 shall advise the Director of *Energy and Conservation* and
28 the local governing body responsible for the
29 administration of the preserve of the intention to
30 consider the location of a public improvement within the
31 preserve. In accordance with Section 51290, the notice
32 shall include an explanation of the preliminary
33 consideration of Section 51292, and give a general
34 description, in text or by diagram, of the agricultural
35 preserve land proposed for acquisition, and a copy of any
36 applicable contract created under this chapter. The
37 Director of *Energy and Conservation* shall forward to the
38 Director of Food and Agriculture a copy of any material
39 received from the public agency or person relating to the
40 proposed acquisition.

1 (2) Within 30 days thereafter, the Director of *Energy*
2 *and* Conservation and the local governing body shall
3 forward to the public agency or person concerned their
4 comments with respect to the effect of the location of the
5 public improvement on the land within the agricultural
6 preserve and those comments shall be considered by the
7 public agency or person. In preparing those comments,
8 the Director of *Energy and* Conservation shall consider
9 issues related to agricultural land use, including, but not
10 limited to, matters related to the effects of the proposal
11 on the conversion of adjacent or nearby agricultural land
12 to nonagricultural uses, and shall consult with, and
13 incorporate the comments of, the Director of Food and
14 Agriculture on any other matters related to agricultural
15 operations. Failure of any public agency or person to
16 comply with the requirements of this section shall not
17 invalidate any action by the agency or person to locate a
18 public improvement within an agricultural preserve.
19 However, the failure by any person or any public agency
20 other than a state agency to comply with the
21 requirements of this section shall be admissible in
22 evidence in any litigation for the acquisition of that land
23 or involving the allocation of funds or the construction of
24 the public improvement. This subdivision does not apply
25 to the erection, construction, alteration, or maintenance
26 of gas, electric, water, or communication utility facilities
27 within an agricultural preserve if that preserve was
28 established after submission of the location of those
29 facilities to the city or county for review or approval.

30 (c) When land in an agricultural preserve is acquired
31 by a public entity, within 10 working days the public
32 entity shall notify the Director of *Energy and*
33 Conservation. The notice shall include a general
34 explanation of the decision, and the findings made
35 pursuant to Section 51292. If different from that
36 previously provided pursuant to subdivision (b), the
37 notice shall also include a general description, in text or
38 by diagram, of the agricultural preserve land acquired,
39 and a copy of any applicable contract created under this
40 chapter.



1 (d) If, after giving the notice required under
2 subdivisions (b) and (c) and before the project is
3 completed within an agricultural preserve, the public
4 agency or person proposes any significant change in the
5 public improvement, ~~it~~ *the public agency or person* shall
6 give notice of the changes to the Director of *Energy and*
7 Conservation and the local governing body responsible
8 for the administration of the preserve. Within 30 days
9 thereafter, the Director of *Energy and* Conservation and
10 the local governing body may forward to the public
11 agency or person their comments with respect to the
12 effect of the change to the public improvement on the
13 land within the preserve and the compliance of the
14 changed public improvements with this article. Those
15 comments shall be considered by the public agency or
16 person, if available within the time limits set by this
17 subdivision.

18 (e) (1) If the notices and findings required by this
19 section and Section 51292 are given and contained within
20 documents prepared pursuant to the California
21 Environmental Quality Act (Division 13 (commencing
22 with Section 21000) of the Public Resources Code), those
23 documents may be used to meet the notification and
24 findings requirements of this section and Section 51292,
25 as long as they are provided ~~no~~ *not* later than the times
26 set forth in this section.

27 (2) Any action or proceeding regarding notices or
28 findings required by this article filed by the Director of
29 *Energy and* Conservation or the local governing body
30 administering the agricultural preserve shall be
31 governed by Section 51294.

32 SEC. 55. Section 51294 of the Government Code is
33 amended to read:

34 51294. Section 51292 shall be enforceable only by
35 mandamus proceedings by the local governing body
36 administering the agricultural preserve or *by* the
37 Director of *Energy and* Conservation. However, as
38 applied to condemnors whose determination of necessity
39 is not conclusive by statute, evidence as to the compliance
40 of the condemnor with Section 51292 shall be admissible

1 on motion of any of the parties in any action otherwise
2 authorized to be brought by the landowner or in any
3 action against the landowner.

4 SEC. 56. Section 51294.1 of the Government Code is
5 amended to read:

6 51294.1. After 30 days have elapsed following its
7 action, pursuant to subdivision (b) of Section 51291,
8 advising the Director of *Energy and* Conservation and
9 the local governing body of a county or city administering
10 an agricultural preserve of its intention to consider the
11 location of a public improvement within ~~such~~ *that*
12 agricultural preserve, a public agency proposing to
13 acquire land within an agricultural preserve for water
14 transmission facilities which will extend into more than
15 one county, may file the proposed route of the facilities
16 with each county or city administering an agricultural
17 preserve into which the facilities will extend and request
18 each county or city to approve or agree to the location of
19 the facilities or the acquisition of the land therefor. Upon
20 approval or agreement, the provisions of Section 51292
21 shall not apply to the location of the proposed water
22 transmission facility or the acquisition of land therefor in
23 any county or city which has approved or agreed to the
24 location or acquisition.

25 SEC. 57. Section 65570 of the Government Code is
26 amended to read:

27 65570. (a) The Director of *Energy and* Conservation
28 may establish, after notice and hearing, rules and
29 regulations, and require reports from local officials and
30 may employ, borrow, or contract for such staff or other
31 forms of assistance as are reasonably necessary to carry
32 out this section, Chapter 3 (commencing with Section
33 16140) of Part 1 of Division 4 of Title 2 *of this code*, and
34 Section 612 of the Public Resources Code. In carrying out
35 his or her duties under those ~~sections—provisions~~, it is the
36 intention of the Legislature that the ~~the—director~~ *Director of*
37 *Energy and Conservation* shall consult with the Director
38 of Food and Agriculture and the Director of Planning and
39 Research.



1 (b) Commencing July 1, 1986, and continuing
 2 biennially thereafter, the Department of *Energy and*
 3 Conservation shall collect or acquire information on the
 4 amount of land converted to or from agricultural use
 5 using 1984 baseline information as updated pursuant to
 6 this section for every county for which Important
 7 Farmland Series maps exist. On or before June 30, 1988,
 8 and continuing biennially thereafter, the ~~department~~
 9 *Department of Energy and Conservation* shall report to
 10 the Legislature on the data collected pursuant to this
 11 section. In reporting, the ~~department~~ *Department of*
 12 *Energy and Conservation* shall specify, by category of
 13 agricultural land, the amount of land converted to, or
 14 from, agricultural use, by county and on a statewide basis.
 15 The ~~department~~ *Department of Energy and*
 16 *Conservation* shall also report on the nonagricultural uses
 17 to which these agricultural lands were converted or
 18 committed.

19 (c) For the purposes of this section, the following
 20 definitions apply unless otherwise specified:

21 (1) "Important Farmland Series maps" means those
 22 maps compiled by the United States Soil Conservation
 23 Service and updated and modified by the Department of
 24 *Energy and Conservation*.

25 (2) "Interim Farmland maps" means those maps
 26 prepared by the Department of *Energy and*
 27 Conservation for areas that do not have the current soil
 28 survey information needed to compile Important
 29 Farmland Series maps. The Interim Farmland maps shall
 30 indicate areas of irrigated agriculture, dry-farmed
 31 agriculture, grazing lands, urban and built-up lands, and
 32 any areas committed to urban or other nonagricultural
 33 uses.

34 (3) "Category of agricultural land" means prime
 35 farmland, farmland of statewide importance, unique
 36 farmland, and farmland of local importance, as defined
 37 pursuant to United States Department of Agriculture
 38 land inventory and monitoring criteria, as modified for
 39 California, and grazing land. "Grazing land" means land
 40 on which the existing vegetation, whether grown

1 naturally or through management, is suitable for grazing
2 or browsing of livestock.

3 (4) “Amount of land converted to agricultural use”
4 means those lands which were brought into agricultural
5 use or reestablished in agricultural use and were not
6 shown as agricultural land on Important Farmland Series
7 maps maintained by the Department of *Energy and*
8 Conservation in the most recent biennial report.

9 (5) “Amount of land converted from agricultural use”
10 means those lands which were permanently converted or
11 committed to urban or other nonagricultural uses and
12 were shown as agricultural land on Important Farmland
13 Series maps maintained by the Department of *Energy*
14 *and* Conservation and in the most recent biennial report.

15 ~~(c)~~

16 (d) Beginning August 1, 1986, and continuing
17 biennially thereafter, the Department of *Energy and*
18 Conservation shall update and send counties copies of
19 current Important Farmland Series maps. Counties may
20 review the maps and notify the department within 90
21 days of any changes in agricultural land pursuant to
22 subdivision (b) that occurred during the previous fiscal
23 year, and note and request correction of any
24 discrepancies or errors in the classification of agricultural
25 lands on the maps. The ~~department~~ *Department of*
26 *Energy and Conservation* shall make those corrections
27 requested by counties. The ~~department~~ *Department of*
28 *Energy and Conservation* shall provide staff assistance, as
29 available, to collect or acquire information on the amount
30 of land converted to, or from, agricultural use for those
31 counties for which Important Farmland Series maps exist.

32 ~~(d)~~

33 (e) The Department of *Energy and* Conservation may
34 also acquire any supplemental information which
35 becomes available from new soil surveys and establish
36 comparable baseline data for counties not included in the
37 1984 baseline, and shall report on the data pursuant to this
38 section. The Department of *Energy and* Conservation
39 may prepare Interim Farmland maps to supplement the
40 Important Farmland Series maps.



(e)

(f) The Legislature finds that the purpose of the Important Farmland Series maps and the Interim Farmland maps is not to consider the economic viability of agricultural lands or their current designation in the general plan. The purpose of the maps is limited to the preparation of an inventory of agricultural lands, as defined in this chapter, as well as land already committed to future urban or other nonagricultural purposes.

SEC. 58. Section 66645 of the Government Code is amended to read:

66645. (a) In addition to the provisions of Sections ~~25302, 25500, 25507, 25508, 25514, 25516.1, 25519, 25523, and 25526~~ 25127, 25400, 25412, 25413, 25421, 25426, 25432, 25437, and 25444 of the Public Resources Code, the provisions of this section shall apply to the commission and to the ~~State Energy Resources Conservation and Development Commission~~ *Department of Energy and Conservation and the State Energy Facilities Siting Board* with respect to matters within the statutory responsibility of the ~~latter department and the board~~.

(b) After one or more public hearings, and prior to January 1, 1979, the commission shall designate those specific locations within the Suisun Marsh, as defined in Section 29101 of the Public Resources Code, or the area of jurisdiction of the commission, where the location of a facility, as defined in Section ~~25110~~ 25021 of the Public Resources Code, would be inconsistent with this title or Division 19 (commencing with Section 29000) of the Public Resources Code. The following locations, however, shall not be so designated: (1) any property of a utility that is used for such a facility or will be used for the reasonable expansion thereof; (2) any site for which a notice of intention to file an application for certification has been filed pursuant to Section ~~25502~~ 25404 of the Public Resources Code prior to January 1, 1978, and is subsequently approved pursuant to Section ~~22516~~ 25425 of the Public Resources Code; and (3) the area east of Collinsville Road that is designated for water-related industrial use on the Suisun Marsh Protection Plan Map.

1 Each designation made pursuant to this section shall
2 include a description of the boundaries of those locations,
3 the provisions of this title or Division 19 (commencing
4 with Section 29000) of the Public Resources Code with
5 which they would be inconsistent, and detailed findings
6 concerning the significant adverse impacts that would
7 result from development of a facility in the designated
8 area. The commission shall consider the conclusions, if
9 any, reached by the ~~State Energy Resources~~
10 ~~Conservation and Development Commission~~
11 *Department of Energy and Conservation* in its most
12 recently promulgated comprehensive report issued
13 pursuant to Section ~~25309~~ 25136 of the Public Resources
14 Code. The commission also shall request the assistance of
15 the ~~State Energy Resources Conservation and~~
16 ~~Development Commission~~ *Department of Energy and*
17 *Conservation* in carrying out the requirements of this
18 section. The commission shall transmit a copy of its report
19 prepared pursuant to this subdivision to the ~~State Energy~~
20 ~~Resources Conservation and Development Commission~~
21 *Department of Energy and Conservation*.

22 (c) The commission shall revise and update the
23 designations specified in subdivision (b) not less than
24 once every five years. The provisions of subdivision (b)
25 shall not apply to any sites and related facilities specified
26 in any notice of intention to file an application for
27 certification filed pursuant to Section ~~25502~~ 25404 of the
28 Public Resources Code prior to designation of additional
29 locations made by the commission pursuant to this
30 subdivision.

31 (d) Whenever the ~~State Energy Resources~~
32 ~~Conservation and Development Commission~~ *State*
33 *Energy Facilities Siting Board* exercises its siting
34 authority and undertakes proceedings pursuant to the
35 provisions of Chapter ~~6~~ 12 (commencing with Section
36 ~~25500~~ 25400) of Division 15 of the Public Resources Code
37 with respect to any thermal powerplant or transmission
38 line to be located, in whole or in part, within the Suisun
39 Marsh or the area of jurisdiction of the commission, the
40 commission shall participate in those proceedings and

1 shall receive from the ~~State Energy Resources~~
2 ~~Conservation and Development Commission~~ *State*
3 *Energy Facilities Siting Board* any notice of intention to
4 file an application for certification of a site and related
5 facilities within the Suisun Marsh or the area of
6 jurisdiction of the commission. The commission shall
7 analyze each notice of intention and, prior to
8 commencement of the hearings conducted pursuant to
9 Section ~~25513~~ 25420 of the Public Resources Code, shall
10 forward to the ~~State Energy Resources Conservation and~~
11 ~~Development Commission~~ *State Energy Facilities Siting*
12 *Board* a written report on the suitability of the proposed
13 site and related facilities specified in that notice. The
14 commission's report shall contain a consideration of, and
15 findings regarding, the following:

16 (1) If it is to be located within the Suisun Marsh, the
17 consistency of the proposed site and related facilities,
18 with the provisions of this title and Division 19
19 (commencing with Section 29000) of the Public
20 Resources Code, the policies of the Suisun Marsh
21 Protection Plan (as defined in Section 29113 of the Public
22 Resources Code) and the certified local protection
23 program (as defined in Section 29111 of the Public
24 Resources Code) if any.

25 (2) If it is to be located within the area of jurisdiction
26 of the commission, the consistency of the proposed site
27 and related facilities with the provisions of this title and
28 the San Francisco Bay Plan.

29 (3) The degree to which the proposed site and related
30 facilities could reasonably be modified so as to be
31 consistent with this title, Division 19 (commencing with
32 Section 29000) of the Public Resources Code, the Suisun
33 Marsh Protection Plan, or the San Francisco Bay Plan.

34 (4) Such other matters as the commission ~~deems~~
35 *determines to be* appropriate and necessary to carry out
36 Division 19 (commencing with Section 29000) of the
37 Public Resources Code.

38 SEC. 59. Section 66646 of the Government Code is
39 amended to read:

1 66646. Notwithstanding any other provision of this
2 title, except subdivisions (b) and (c) of Section 66645, and
3 notwithstanding any provision of Division 19
4 (commencing with Section 29000) of the Public
5 Resources Code, new or expanded thermal electric
6 generating plants may be constructed within the Suisun
7 Marsh, as defined in Section 29101 of the Public Resources
8 Code, or the area of jurisdiction of the commission, if the
9 proposed site has been determined, pursuant to the
10 provisions of Section ~~25516.1~~ 25426 of the Public
11 Resources Code, by the ~~State Energy Resources~~
12 ~~Conservation and Development Commission~~ *State*
13 *Energy Facilities Siting Board* to have greater relative
14 merit than available alternative sites and related facilities
15 for an applicant's service area which have been
16 determined to be acceptable pursuant to the provisions
17 of Section ~~25516~~ 25425 of the Public Resources Code.

18 SEC. 60. Section 18926 of the Health and Safety Code
19 is amended to read:

20 18926. (a) There is, in the office of the executive
21 director, a coordinating council. The membership of the
22 council shall consist of the executive director, who shall
23 serve as chairperson, and representatives appointed by
24 the State Director of Health Services, the Director of the
25 Office of Statewide Health Planning and Development,
26 the Director of Housing and Community Development,
27 the Director of Industrial Relations, the State Fire
28 Marshal, the ~~Executive Director of the State Energy~~
29 ~~Resources Conservation and Development Commission~~
30 *Director of Energy and Conservation*, and the Director
31 of General Services.

32 (b) Subject to the pleasure of the commission:

33 (1) The council or any member of the council shall,
34 when called and directed in writing by the executive
35 director, work with and assist an agency proposing
36 building standards or adopting building standards, or
37 both, in the development of proposals for building
38 standards.

39 (2) When a state agency contemplates the adoption of
40 any building standard, it shall, prior to commencing any

1 action to prepare a draft of the proposal, advise the
2 executive director, in writing, of that intent and request
3 the executive director to call the council, or any member
4 of the council, as appropriate, for assistance.

5 (3) Whenever the commission returns for
6 amendment, or rejects any proposed building standard,
7 and one of the reasons for that action is that approval of
8 the proposal would create a conflict with existing building
9 standards of other adopting agencies, the executive
10 director shall call the council or any member of the
11 council, as appropriate, to assist in the elimination of the
12 conflict.

13 (4) The council shall draft proposed building
14 standards which the commission is authorized to adopt
15 pursuant to Section 18933 for the consideration of the
16 commission and approval, utilizing the criteria of Section
17 18930.

18 SEC. 61. Section 18949.4 of the Health and Safety
19 Code is amended to read:

20 18949.4. The ~~State Energy Resources Conservation~~
21 ~~and Development Commission~~ *Department of Energy*
22 *and Conservation* shall submit building standards to the
23 commission for review and approval pursuant to Section
24 18930 in accordance with the time schedule established
25 by the State Building Standards Commission.

26 SEC. 62. Section 25651 of the Health and Safety Code
27 is amended to read:

28 25651. (a) The department, with the assistance of the
29 Office of Emergency Services, the ~~State Energy~~
30 ~~Resources Conservation and Development Commission~~
31 *Department of Energy and Conservation*, and the
32 Department of the California Highway Patrol shall, with
33 respect to any fissile radioactive material coming within
34 the definition of “fissile class II,” “fissile class III,” “large
35 quantity radioactive materials,” or “low-level radioactive
36 waste” provided by the regulations of the United States
37 Department of Transportation (49 C.F.R. 173.389), do all
38 of the following:

39 (1) Study the adequacy of current packaging
40 requirements for radioactive materials.

1 (2) Study the effectiveness of special routing and
2 timing of radioactive materials shipments for the
3 protection of the public health.

4 (3) Study the advantages of establishing a tracking
5 system for shipments of most hazardous radioactive
6 materials.

7 (b) A report on these studies, together with
8 recommendations for any necessary changes in
9 transportation regulations, shall be submitted by the
10 department to the Legislature on or before July 1, 1982.

11 (c) The department, with the assistance of the Office
12 of Emergency Services, the ~~State Energy Resources~~
13 ~~Conservation and Development Commission~~
14 *Department of Energy and Conservation*, and the
15 Department of the California Highway Patrol, shall
16 extend the nuclear threat emergency response plan to
17 include radioactive materials in transit and provide
18 training for law enforcement officers in dealing with
19 those threats.

20 (d) Subject to Section 25611, the department, in
21 cooperation with the Department of the California
22 Highway Patrol, shall adopt, in accordance with Chapter
23 3.5 (commencing with Section 11340) of Part 1 of Division
24 3 of Title 2 of the Government Code, reasonable
25 regulations which, in the judgment of the department,
26 promote the safe transportation of radioactive materials.
27 The regulations shall (1) prescribe the use of signs
28 designating radioactive material cargo; shall designate, in
29 accordance with the results of the studies done pursuant
30 to subdivision (a), the manner in which the shipper shall
31 give notice of such shipment to appropriate authorities;
32 (2) prescribe the packing, marking, loading, and
33 handling of radioactive materials, and the precautions
34 necessary to determine whether the material when
35 offered is in proper condition to transport, but shall not
36 include the equipment and operation of the carrier
37 vehicle; and (3) be reviewed and amended, as required,
38 pursuant to Section 25611. The regulations shall be
39 compatible with those established by the federal agency

1 or agencies required or permitted by federal law to
2 establish the regulations.

3 (e) Subject to Section 25611, the Department of the
4 California Highway Patrol, after consulting with the
5 department, shall adopt regulations specifying the time
6 at which shipments may occur and the routes which are
7 to be used in the transportation of cargoes of hazardous
8 radioactive materials, as those materials are defined in
9 regulations of the department.

10 SEC. 63. Section 39660.5 of the Health and Safety
11 Code is amended to read:

12 39660.5. (a) In evaluating the level of potential
13 human exposure to toxic air contaminants, the state board
14 shall assess that exposure in indoor environments as well
15 as in ambient air conditions.

16 (b) The state board shall consult with the State
17 Department of Health Services, pursuant to the program
18 on indoor environmental quality established under
19 Article 9.5 (commencing with Section 426) of Chapter 2
20 of Part 1 of Division 1, concerning which potential toxic
21 air contaminants may be found in the indoor
22 environment and on the best methodology for measuring
23 exposure to these contaminants.

24 (c) When the state board identifies toxic air pollutants
25 that have been found in any indoor environment, the
26 state board shall refer all available data on that exposure
27 and the suspected source of the pollutant to the State
28 Department of Health Services, the Division of
29 Occupational Safety and Health of the Department of
30 Industrial Relations, the ~~State Energy Resources~~
31 ~~Conservation and Development Commission~~
32 *Department of Energy and Conservation*, the
33 Department of Housing and Community Development,
34 and the Department of Consumer Affairs.

35 (d) In assessing human exposure to toxic air
36 contaminants in indoor environments pursuant to this
37 section, the state board shall identify the relative
38 contribution to total exposure to the contaminant from
39 indoor concentrations, taking into account both ambient
40 and indoor air environments.

1 SEC. 64. Section 40448.5 of the Health and Safety
2 Code is amended to read:

3 40448.5. (a) The south coast district shall establish a
4 program to encourage voluntary participation in projects
5 to increase the utilization of clean-burning fuels. The
6 south coast district shall coordinate its program with the
7 state board, the ~~State Energy Resources Conservation~~
8 ~~and Development Commission~~ *Department of Energy*
9 *and Conservation*, and other appropriate state and
10 federal agencies and private organizations that are
11 conducting activities to promote the use of clean-burning
12 fuels.

13 (b) After holding at least two public hearings to solicit
14 public comment on a clean-burning fuels program, the
15 south coast district shall adopt a program of activities for
16 increasing the use of clean-burning fuels in the
17 transportation and stationary source sectors.

18 (c) The program shall include an identification of
19 potential funding sources, including, but not limited to,
20 state and federal funds; private-sector funds; revenues
21 from district permit, variance, and emission fees;
22 proceeds from district penalty settlements and
23 judgments; and funds from other sources under the
24 jurisdiction of the south coast district.

25 (d) In developing its program, the south coast district
26 shall consider promoting projects in the transportation
27 and stationary source sectors utilizing methanol fuel, fuel
28 cells, liquid petroleum gas, natural gas, including
29 compressed natural gas, combination fuels, synthetic
30 fuels, electricity, including electric vehicles, and other
31 clean-burning fuels.

32 (e) When considering which clean fuels projects to
33 promote, the south coast district shall consider, among
34 other factors, the current and projected economic costs
35 and availability of fuels, the cost-effectiveness of emission
36 reductions associated with clean fuels compared with
37 other pollution control alternatives, the use of new
38 pollution control technologies in conjunction with
39 traditional fuels as an alternative means of reducing
40 emissions, potential effects on public health, ambient air

1 quality, visibility within the region, and other factors
2 determined to be relevant by the south coast district.

3 (f) When implementing clean fuels projects, the south
4 coast district shall consider limiting the use of clean fuels
5 to specific seasons, time of day, and locations if those
6 limitations are found by the district to further the goals
7 of the program.

8 (g) The south coast district shall coordinate the
9 clean-burning fuels program with transportation control
10 measures adopted pursuant to paragraph (4) of
11 subdivision (b) of Section 40440 to reduce traffic
12 congestion, air pollution, and motor vehicle fuel
13 consumption.

14 SEC. 65. Section 42314.1 of the Health and Safety
15 Code is amended to read:

16 42314.1. (a) Except as provided in subdivision (b), to
17 the extent permissible under federal law, and
18 notwithstanding any state or local new source review or
19 prevention of significant deterioration rule or regulation,
20 at the request of an applicant, a district shall issue permits
21 for the construction of a project which burns municipal
22 waste, landfill gas, or digester gas, if all of the following
23 conditions are met:

24 (1) The project produces less than 50 megawatts of
25 electricity, except as provided in paragraph (4).

26 (2) The project will utilize the appropriate degree of
27 pollution control technology (BACT or LAER) required
28 by the new source review rule of the district.

29 (3) The project applicant has, in the judgment of the
30 district, made a good faith effort to secure all available
31 emission offsets to mitigate the impact of the project, but
32 sufficient offsets or other mitigation measures are not
33 available. The applicant, however, is required to secure
34 all the offsets which are available to mitigate the air
35 quality impact of the project, except for projects which
36 constitute a modification to an existing source under the
37 district's new source review rule, in which case the
38 applicant is only required to provide offsets from facilities
39 which the applicant owns or operates within the air basin.

1 (4) The project produces 50 megawatts or more, but
2 less than 80 megawatts, of electricity, meets the
3 requirements of paragraphs (2) and (3), is located in a
4 district whose state implementation plan revisions have
5 been approved by the Environmental Protection Agency
6 and that has attained, or is reasonably expected to attain,
7 national air quality standards for any criteria pollutant for
8 which sufficient growth allowances are available in the air
9 quality maintenance plan or, in the event the project
10 would cause any criteria pollutant to exceed the available
11 or possible future growth allowance, the applicant
12 secures offsets in an amount equal to the excess in the
13 growth allowance, and processes municipal wastes from
14 one or more municipalities. Any project under this
15 paragraph shall comply with applicable prevention of
16 significant deterioration rules and regulations.

17 (b) If a proposed project permitted under subdivision
18 (a) has an electrical generating capacity of 50 megawatts
19 or more, the district shall determine whether the project
20 meets the requirements of this section and, in making its
21 determination, shall consider the potential emission of
22 noncriteria pollutants from project facilities and shall
23 develop appropriate permit conditions. The district shall
24 submit its determination and supporting analyses,
25 including the analysis of noncriteria pollutants and
26 appropriate permit conditions, to the ~~State Energy~~
27 ~~Resources Conservation and Development Commission~~
28 *State Energy Facilities Siting Board* for use pursuant to
29 Chapter ~~6 12~~ (commencing with Section ~~25500 25400~~) of
30 Division 15 of the Public Resources Code.

31 (c) Any permit issued pursuant to subdivision (a), and
32 any determination made by a district pursuant to
33 subdivision (b), shall meet the additional requirements of
34 Section 42315.

35 SEC. 66. Section 43803 of the Health and Safety Code
36 is amended to read:

37 43803. For each vehicle identified by the state board
38 as a low-emission motor vehicle, the Department of
39 General Services, in consultation with the state board and
40 the ~~State Energy Resources Conservation and~~

~~Development—Commission~~ *Department of Energy and Conservation*, shall determine if the low-emission motor vehicle meets all of the following requirements:

(a) The vehicle can be manufactured or obtained in sufficient numbers for the purpose of proper evaluation.

(b) The vehicle meets the performance needs for state vehicles.

(c) The cost of the vehicle does not exceed by more than 100 percent the average cost of comparable state vehicles purchased in the preceding fiscal year.

(d) If the vehicle is purchased by the state, there would be a sufficient number of servicing and maintenance outlets.

(e) The average operating and maintenance costs for the vehicle are comparable to the average operating and maintenance costs for all other state passenger vehicles. In no event, however, shall the average operating and maintenance costs for the vehicle exceed the average costs of operating and maintaining all other state vehicles by more than 50 percent.

SEC. 67. Section 44011.6 of the Health and Safety Code is amended to read:

44011.6. (a) (1) As expeditiously as possible, the state board shall develop a test procedure for the detection of excessive smoke emissions from heavy-duty diesel motor vehicles that is feasible for use in an intermittent roadside inspection program. During the development of the test procedure, the state board shall cooperate with the Department of the California Highway Patrol in conducting roadside inspections.

(2) The state board may also specify visual or functional inspection procedures to determine the presence of tampering or defective emissions control systems in heavy-duty diesel or heavy-duty gasoline motor vehicles. However, visual or functional inspection procedures for heavy-duty gasoline motor vehicles shall not be more stringent than those prescribed by the department for heavy-duty gasoline motor vehicles subject to biennial inspection pursuant to Section 44013.

1 (3) The chairperson of the state board shall appoint an
2 ad hoc advisory committee which shall include, but not
3 be limited to, representatives of heavy-duty engine
4 manufacturers, carriers of property for compensation
5 using heavy-duty gasoline or diesel motor vehicles, and
6 the Department of the California Highway Patrol. The
7 advisory committee shall cooperate with the state board
8 to develop a test procedure pursuant to this subdivision
9 and shall advise the state board in developing regulations
10 to implement test procedures and inspection of
11 heavy-duty commercial motor vehicles.

12 (b) Any smoke testing procedures or smoke
13 measuring equipment, including any meter that
14 measures smoke opacity or density and any recorder that
15 stores or records smoke opacity or density measurements,
16 used to test for compliance with this section and
17 regulations adopted pursuant to this section, shall
18 produce consistent and repeatable results. The
19 requirements of this subdivision shall be satisfied by the
20 adoption of Society of Automotive Engineers
21 recommended practice J 1667, "Snap-Acceleration
22 Smoke Test Procedures for Heavy-Duty Diesel Powered
23 Vehicles."

24 (c) (1) The smoke test standards and procedures
25 adopted and implemented pursuant to this section shall
26 be designed to ensure that no engine will fail the smoke
27 test standards and procedures adopted under this section
28 when the engine is in good operating condition and is
29 adjusted to the manufacturer's specifications.

30 (2) In implementing this section, the state board shall
31 immediately adopt procedures that either ensure that
32 there will be no false failures or that ensure that the state
33 board will remedy any false failures without any penalty
34 to the vehicle owner.

35 (d) The state board shall, by regulation, prohibit the
36 use of heavy-duty motor vehicles which are determined
37 to have excessive smoke emissions or other
38 emissions-related defects, using the test procedure
39 established pursuant to this section.



1 (e) The state board may issue a citation to the owner
2 or operator for any vehicle in violation of the regulations
3 adopted under this section. The regulations may require
4 the operator of a vehicle to submit to a test procedure
5 adopted pursuant to subdivision (a), may specify that
6 refusal to so submit is a violation of the regulations, and
7 shall require that, when a citation has been issued, the
8 owner of a vehicle in violation of the regulations shall,
9 within 45 days, correct every deficiency specified in the
10 citation.

11 (f) The department may develop criteria for one or
12 more classes of smog check stations capable of
13 determining compliance with regulations adopted
14 pursuant to this section and may authorize those stations
15 to issue certificates of compliance to vehicles in
16 compliance with the regulations. The department may
17 contract for the operation of smog check stations for
18 heavy-duty vehicles pursuant to this subdivision, and only
19 heavy-duty vehicles may be inspected at those stations.

20 (g) In addition to the corrective action required by
21 this section, the owner of a motor vehicle in violation of
22 the regulations adopted pursuant to this section is subject
23 to a civil penalty of not more than one thousand five
24 hundred dollars (\$1,500) per day for each day that the
25 vehicle is in violation. The state board may adopt a
26 schedule of reduced civil penalties to be applied in cases
27 where violations are corrected in an expeditious manner.
28 The schedule of reduced civil penalties shall not,
29 however, apply where there have been repeated
30 incidents of emissions control system tampering. All civil
31 penalties imposed pursuant to this subdivision shall be
32 collected by the state board and deposited in the Vehicle
33 Inspection and Repair Fund. Funds in the Vehicle
34 Inspection and Repair Fund shall, when appropriated by
35 the Legislature, be available to the state board and the
36 Department of the California Highway Patrol for the
37 conduct of intermittent roadside inspections of
38 heavy-duty vehicles pursuant to this section.

39 (h) Following the adoption of regulations pursuant to
40 this section, the state board and the Department of the

1 California Highway Patrol shall commence inspecting
2 heavy-duty motor vehicles. With the concurrence of the
3 Department of the California Highway Patrol, these
4 inspections may be conducted in conjunction with the
5 safety and weight enforcement activities of the
6 Department of the California Highway Patrol or at other
7 locations selected by the state board or the Department
8 of the California Highway Patrol. Inspection locations
9 may include private facilities where fleet vehicles are
10 serviced or maintained. The state board and the
11 Department of the California Highway Patrol may
12 conduct these inspections either cooperatively or
13 independently, and the state board may contract for
14 assistance in the conduct of these inspections.

15 (i) The state board shall inform the Department of the
16 California Highway Patrol whenever a vehicle owner
17 cited pursuant to this section fails to take a required
18 corrective action or to pay a civil penalty levied pursuant
19 to subdivisions (g) and (k) in a timely manner. Following
20 notice and opportunity for an administrative hearing
21 pursuant to subdivision (l), the state board may request
22 the Department of the California Highway Patrol to
23 remove the vehicle from service and order the vehicle
24 stored. Upon notification from the state board of payment
25 of any civil penalties imposed under subdivision (g) and
26 storage and related charges, the vehicle shall be released
27 to the owner or designee. Upon release of the vehicle, the
28 owner or designee shall correct every deficiency
29 specified in any citation to that owner with respect to the
30 vehicle.

31 (j) The state board, in consultation with the
32 Department of the California Highway Patrol, shall,
33 within two years of the adoption of regulations pursuant
34 to this section, prepare and submit to the Legislature a
35 report on the smoke emissions enforcement program
36 conducted under this section, including, but not limited
37 to, its assessment of the effectiveness of the program, the
38 impact of the program on the operations of the
39 Department of the California Highway Patrol, and its



1 recommendations for changes in, alternatives to, or
2 termination of, the program.

3 (k) In addition to the corrective action required by
4 subdivision (e), and in addition to the civil penalty
5 imposed by subdivision (g), the owner of a motor vehicle
6 cited by the state board pursuant to this section shall pay
7 a civil penalty of three hundred dollars (\$300) per
8 citation; except that this penalty shall not apply to the first
9 citation for any schoolbus. All civil penalties imposed
10 pursuant to this subdivision shall be collected by the state
11 board and deposited in the Diesel Emission Reduction
12 Fund, which fund is hereby created. Funds in the Diesel
13 Emission Reduction Fund shall, when appropriated by
14 the Legislature, be available to the ~~State Energy~~
15 ~~Resources Conservation and Development Commission~~
16 *Department of Energy and Conservation* for research,
17 development, and demonstration programs undertaken
18 pursuant to Section ~~24617~~ 25514 of the Public Resources
19 Code.

20 (l) The state board shall adopt regulations that afford
21 an owner cited under this section an opportunity for an
22 administrative hearing. Any owner cited under this
23 section may request an administrative hearing within 45
24 days following either personal receipt or certified mail
25 receipt of the citation. If the owner fails to request an
26 administrative hearing within 45 days, the citation shall
27 be deemed a final order and not subject to review by any
28 court or agency. If the owner requests an administrative
29 hearing and fails to seek review by administrative
30 mandamus pursuant to Section 1094.5 of the Code of Civil
31 Procedure within 60 days after the mailing of the
32 administrative hearing decision, the decision shall be
33 deemed a final order and not subject to review by any
34 other court or agency. The 45-day period may be
35 extended by the administrative hearing officer for good
36 cause.

37 (m) Following exhaustion of the review procedures
38 provided for in subdivision (l), the state board may apply
39 to the Superior Court of Sacramento County for a
40 judgment in the amount of the civil penalty. The

1 application, which shall include a certified copy of the
2 final order of the administrative hearing officer, shall
3 constitute a sufficient showing to warrant the issuance of
4 the judgment.

5 SEC. 68. Section 53113 of the Health and Safety Code
6 is amended to read:

7 53113. The corporation may accept and administer
8 grants, subsidies, loans, loan guarantees, and other special
9 programs as may be established for that purpose by the
10 Public Utilities Commission, ~~State Energy Resources~~
11 ~~Conservation and Development Commission~~ *the*
12 *Department of Energy and Conservation*, or any other
13 federal or state agency. However, the corporation shall
14 not be required to accept any administration which
15 would require operation at a loss to the corporation.

16 SEC. 69. The heading of Chapter 2 (commencing
17 with Section 600) of Division 1 of the Public Resources
18 Code is amended to read:

19

20 CHAPTER 2. DEPARTMENT OF *ENERGY AND*
21 CONSERVATION

22

23 SEC. 70. Section 600 of the Public Resources Code is
24 amended to read:

25 600. As used in this chapter, ~~“department”~~ *the*
26 *following terms have the following meaning:*

27 (a) *“Department”* means the Department of *Energy*
28 *and Conservation* and ~~“director”~~.

29 (b) *“Director”* means the Director of *Energy and*
30 *Conservation*.

31 SEC. 71. Section 601 of the Public Resources Code is
32 amended to read:

33 601. There is in the Resources Agency the
34 Department of *Energy and Conservation*. The
35 department shall be conducted under the control of an
36 executive officer known as the Director of *Energy and*
37 *Conservation*. The director shall be appointed by and
38 hold office at the pleasure of the Governor and shall
39 receive an annual salary as provided in ~~Chapter 6~~
40 ~~(commencing with Section 11550) of Part 1 of Division 3~~



~~of Title 2~~ Section 11552 of the Government Code. The appointment of the director shall be subject to confirmation by the Senate.

SEC. 72. Section 602 is added to the Public Resources Code, to read:

602. Upon recommendation of the director, the Governor may appoint one chief deputy director and one deputy director of the department who shall hold office at the pleasure of the Governor. The salaries of the chief deputy director and deputy director shall be fixed in accordance with law.

SEC. 73. Section 603.05 is added to the Public Resources Code, to read:

603.05. Wherever any reference is made in any law to the Department of Conservation or to the Director of Conservation pertaining to a power, duty, responsibility, or jurisdiction transferred to the Department of Energy and Conservation or to the Director of Energy and Conservation, the reference shall be deemed to be a reference to, and to mean, the Department of Energy and Conservation or the Director of Energy and Conservation, as the case may be.

SEC. 74. Section 2002 of the Public Resources Code is amended to read:

2002. ~~“Department,” in reference to the government of this state,~~ “*Department*” means the Department of *Energy and Conservation*.

SEC. 75. Section 2002.5 of the Public Resources Code is amended to read:

2002.5. “Director” means the Director of *Energy and Conservation*.

SEC. 76. Section 2003 of the Public Resources Code is amended to read:

2003. ~~“Division,” in reference to the government of this state,~~ “*Division*” means the Division of Mines and Geology ~~in~~ of the Department of *Energy and Conservation*.

SEC. 77. Section 2010 of the Public Resources Code is repealed.

~~2010. “Director” means the Director of Conservation.~~

1 SEC. 78. Section 3001 of the Public Resources Code is
2 amended to read:

3 3001. ~~“Department,” in reference to the government~~
4 ~~of this state, “Department”~~ means the Department of
5 *Energy and Conservation*.

6 SEC. 79. Section 3002 of the Public Resources Code is
7 amended to read:

8 3002. ~~“Division,” in reference to the government of~~
9 ~~this state, “Division”~~ means the Division of Oil, Gas, and
10 Geothermal Resources ~~in~~ *of* the Department of *Energy*
11 *and Conservation*; otherwise, *if the context so requires*,
12 “division” means Division 3 (commencing with Section
13 3000) ~~of the Public Resources Code~~.

14 SEC. 80. Section 3003 of the Public Resources Code is
15 amended to read:

16 3003. “Director” means the Director of *Energy and*
17 *Conservation*.

18 SEC. 81. Section 3277 of the Public Resources Code is
19 amended to read:

20 3277. The Governor is hereby designated as the
21 official representative of the State of California on the
22 Interstate Oil Compact Commission provided for in the
23 compact ratified by this article. The Governor shall
24 exercise and perform for the State of California all the
25 powers and duties imposed by the compact upon the
26 representative to the Interstate Oil Compact
27 Commission. ~~The Director of Conservation~~ *director* is
28 hereby designated to be the assistant representative and
29 ~~he or she~~ *the director* shall act as the official
30 representative of the State of California on the Interstate
31 Oil Compact Commission when the authority to so act is
32 delegated to ~~him or her~~ *the director* by the Governor. In
33 ~~his or her~~ *the absence of the director*, the ~~State Oil and~~
34 ~~Gas Supervisor~~ *supervisor* is hereby designated to be the
35 assistant representative. The Executive Officer of the
36 State Lands Commission is hereby designated to be the
37 associate representative. In addition, both the assistant
38 representative and the associate representative shall
39 perform such other duties as the Governor may designate
40 which are necessary to enable the State of California to



1 cooperate fully in accomplishing the objectives of the
2 compact.

3 SEC. 82. Section 3319 of the Public Resources Code is
4 amended to read:

5 3319. (a) The supervisor, upon the supervisor's own
6 motion, may, or shall, upon the application of any city,
7 county, or city and county, any part of which is in a
8 subsidence area, or any contractor or lessee for the
9 production of oil or gas therefor, or any person having a
10 working interest therein, who has submitted therewith
11 an engineering report and plan for fieldwide
12 repressuring operations in the pool or pools in a field ~~in~~
13 ~~order~~ to arrest or ameliorate subsidence therein,
14 prepared by a petroleum engineer licensed by the state,
15 hold a public hearing. The public hearing shall, at a
16 minimum, consider the need for repressuring operations
17 in all of the pool or pools ~~in order~~ to arrest or ameliorate
18 subsidence. The supervisor may order applications
19 relating to the same field to be consolidated for the public
20 hearing thereon.

21 (b) Before any application shall be considered, each
22 applicant shall pay to the supervisor for deposit in the
23 General Fund a sum of money estimated by the
24 supervisor to be equivalent to the amount of costs
25 necessary to publish and mail notices, to employ
26 stenographic reporters, to prepare a daily transcript of
27 ~~such~~ *the* hearing for use by the supervisor, to pay any
28 rental that may be necessary to provide quarters for the
29 hearing and to reimburse the ~~Department of~~
30 ~~Conservation~~ *department* for any charges imposed upon
31 it for the services of a hearing officer or members of the
32 Attorney General's staff in conjunction with the hearing.
33 If more than one application is filed, the costs shall be
34 equally charged and assessed to and paid by the
35 respective applicants. The costs, when finally
36 determined, if in excess of the amount theretofore
37 deposited shall be paid equally by the applicant or
38 applicants. Any money remaining on deposit after final
39 determination and payment of costs shall be refunded to
40 the applicant or applicants equally. If, after a public

1 hearing and from the evidence adduced therefrom, and
2 from such engineering studies as the supervisor may have
3 ordered made and which have been presented and
4 considered at the hearing, the supervisor finds that
5 repressuring operations of the pool or pools will tend to
6 arrest or ameliorate subsidence, the supervisor shall by
7 order adopt a fieldwide repressuring plan and
8 specifications of the work to be done thereunder, if, in the
9 judgment of the supervisor, the fieldwide plan and
10 specifications are necessary, and will not substantially
11 reduce the maximum economic quantity of oil or gas
12 ultimately recoverable from the pool or pools under
13 prudent and proper operations.

14 (c) Any fieldwide repressuring plan and general
15 specifications shall be based upon a competent
16 engineering study of all the pools in the field and shall
17 provide for repressuring operations designed to most
18 effectively arrest or ameliorate subsidence with respect
19 to those land areas overlying or immediately adjacent to
20 a producing pool or pools. The plan and specifications
21 may provide that they may be carried out by one or more
22 units made up of the pool, groups of pools, or portions
23 thereof, or by individual persons, or by cooperative
24 agreements between two or more persons or by any
25 combinations of the foregoing which in the judgment of
26 the supervisor shall be feasible. The study may be
27 reviewed from time to time by the supervisor, and if it be
28 determined, from an analysis of the collected data, that
29 consideration should be given to the alteration or
30 modification of the plan and specifications, the supervisor
31 shall order the holding of the requisite hearing for the
32 purpose of determining whether the change should be
33 incorporated into the plan and specifications by an
34 amended order. The supervisor may amend a fieldwide
35 repressuring plan and general specifications of the work
36 to be done in the same manner as herein provided for the
37 initial adoption of the plan and specifications.

38 SEC. 83. Section 3419 of the Public Resources Code is
39 amended to read:



1 3419. On or before the first of July, the department
2 shall deliver to the ~~State~~ Controller the record of
3 assessments and charges, certified to by the director,
4 which certificate shall be substantially as follows: “I,
5 _____, Director of *Energy and* Conservation, do
6 hereby certify that between the first of March and the
7 first of July, 19____, I made diligent inquiry and
8 examination to ascertain all property and persons, firms,
9 corporations, and associations subject to assessment as
10 required by ~~the provisions of~~ this chapter, providing for
11 the assessment and collection of charges; that I have
12 faithfully complied with all the duties imposed upon me
13 by law; that I have not imposed any unjust or double
14 assessment through malice or ill will or otherwise; nor
15 allowed any *property or* person, firm, corporation, or
16 association, ~~or property subject to assessment~~ to escape a
17 just assessment or charge through favor or regard or
18 otherwise.” Failure to subscribe the certificate to the
19 record of assessments and charges, or any certificate, shall
20 not affect the validity of any assessment or charge.

21 SEC. 84. Section 3704 of the Public Resources Code is
22 repealed.

23 ~~3704. “Department”, in reference to the government~~
24 ~~of this state, means the Department of Conservation.~~

25 SEC. 85. Section 3705 of the Public Resources Code is
26 repealed.

27 ~~3705. “Division,” in reference to the government of~~
28 ~~this state, means the Division of Oil, Gas, and Geothermal~~
29 ~~Resources in the Department of Conservation.~~

30 SEC. 86. Section 3706 of the Public Resources Code is
31 repealed.

32 ~~3706. “Director” means the Director of Conservation.~~

33 SEC. 87. Section 3805.5 of the Public Resources Code
34 is repealed.

35 ~~3805.5. “Commission” means the State Energy~~
36 ~~Resources Conservation and Development Commission.~~

37 SEC. 88. Section 3808 of the Public Resources Code is
38 amended to read:

39 3808. (a) “Geothermal resources” means
40 geothermal resources designated by the United States

1 Geological Survey or *by* the Department of *Energy and*
2 Conservation, or by both.

3 (b) The department shall periodically review, and
4 revise as necessary, its designation of geothermal
5 resource areas ~~and shall transmit any changes to the State~~
6 ~~Energy Resources Conservation and Development~~
7 ~~Commission.~~

8 SEC. 89. Section 3810 of the Public Resources Code is
9 amended to read:

10 3810. (a) (1) “Award repayment or program
11 reimbursement agreement,” including a “royalty
12 agreement,” as specified in subdivision (b), means a
13 method used at the discretion of the ~~commission~~
14 *department* to determine and establish the terms of
15 replenishment of program funds, including, at a
16 minimum, repayment of the award to provide for further
17 awards under this chapter. The award repayment or
18 program reimbursement agreement may provide that
19 payments be made to the ~~commission~~ *department* when
20 the award recipient, affiliate of the award recipient, or
21 third party receives, through any kind of transaction, an
22 economic benefit from the project, invention, or product
23 developed, made possible, or derived, in whole or in part,
24 as a result of the award.

25 (2) An award repayment or program reimbursement
26 agreement shall specify the method to be used by the
27 ~~commission~~ *department* to determine and establish the
28 terms of repayment and reimbursement of the award.

29 (3) The ~~commission~~ *department* may require due
30 diligence of the award recipient and may take any action
31 that is necessary to bring the project, invention, or
32 product to market.

33 (4) Subject to the confidentiality requirements of
34 Section 2505 of Title 20 of the California Code of
35 Regulations, the ~~commission~~ *department* may require
36 access to financial, sales, and production information, and
37 to other agreements involving transactions of the award
38 recipient, affiliates of the award recipient, and third
39 parties, as necessary, to ascertain the royalties or other
40 payments due the ~~commission~~ *department*.

(b) A “royalty agreement” is an award repayment or program reimbursement agreement and is subject to all of the following conditions:

(1) The royalty rate shall be determined by the ~~commission~~ *department* and shall not exceed 5 percent of the gross revenue derived from the project, invention, or product.

(2) The royalty agreement shall specify the method to be used by the ~~commission~~ *department* to determine and establish the terms of payment of the royalty rate.

(3) The ~~commission~~ *department* shall determine the duration of the royalty agreement and may negotiate a collection schedule.

(4) The ~~commission~~ *department*, for separate consideration, may negotiate and receive payments to provide for an early termination of the royalty agreement.

(c) (1) The ~~commission~~ *department* may require that the intellectual property developed, made possible, or derived, in whole or in part, as a result of the award repayment or program reimbursement agreement, revert to the state upon a default in the terms of the award repayment or program reimbursement agreement or royalty agreement.

(2) The ~~commission~~ *department* may require advance notice of any transaction involving intellectual property rights.

SEC. 90. Section 3822 of the Public Resources Code is amended to read:

3822. (a) Thirty percent of the revenues received and deposited in the Geothermal Resources Development Account shall be available for expenditure by the ~~commission~~ *department* as grants or loans to local jurisdictions or private entities without regard to fiscal years. These revenues shall be held by the ~~commission~~ *department* in the Local Government Geothermal Resources Revolving Subaccount, which is hereby created in the Geothermal Resources Development Account. Loan repayments shall be deposited in the

1 subaccount and shall be used for making additional grants
2 and loans pursuant to Section 3823.

3 (b) No local jurisdiction shall be eligible to apply for a
4 grant or loan pursuant to this section unless its governing
5 body approves the application by resolution.

6 (c) Each recipient of a grant or loan made pursuant to
7 this section shall establish, for the deposit of the revenues,
8 an account or fund that is separate from the other
9 accounts and funds of the recipient, and may expend the
10 revenues only for the purposes specified in this chapter.

11 (d) The ~~commission~~*department* shall make grants
12 and loans pursuant to this section irrespective of whether
13 a local jurisdiction is a county of origin.

14 (e) Any of the revenues that are not disbursed as
15 grants or loans pursuant to this section during the fiscal
16 year received shall be retained in the subaccount and
17 may be disbursed as grants or loans pursuant to this
18 section in succeeding fiscal years.

19 (f) (1) Any loan made under this section shall:

20 (A) Not exceed 80 percent of the local jurisdiction's
21 costs.

22 (B) Be repaid together with interest within 20 years
23 from receipt of the loan funds.

24 (2) Notwithstanding any other provision of law, the
25 ~~commission~~*department* shall, unless it determines that
26 the purposes of this chapter would be better served by
27 establishing an alternative interest rate schedule,
28 periodically set interest rates on the loans based on
29 surveys of existing financial markets and at rates not
30 lower than the Pooled Money Investment Account.

31 (g) Any loan or grant made to a private entity under
32 this section shall (1) be matched with at least an equal
33 investment by the recipient, (2) provide tangible
34 benefits, as determined by the ~~commission~~*department*,
35 to a local jurisdiction, and (3) be approved by the city,
36 county, or Indian reservation within which the project is
37 to be located.

38 (h) The ~~commission~~*department* may require an
39 award repayment or program reimbursement

1 agreement of any recipient of a grant or loan made
2 pursuant to this section.

3 SEC. 91. Section 3822.1 of the Public Resources Code
4 is amended to read:

5 3822.1. Notwithstanding any other provision of law,
6 commencing with the 1984–85 fiscal year and in each
7 fiscal year thereafter, any revenues not granted pursuant
8 to Section 3822 remaining in the Geothermal Resources
9 Development Account and any revenues expected to be
10 received and disbursed during the 1984–85 fiscal year and
11 in each fiscal year thereafter shall be made a part of the
12 Governor's Budget. Projects approved by the State
13 ~~Energy Resources Conservation and Development~~
14 ~~Commission~~ *department* under this chapter shall be
15 submitted for review and comment to the Department of
16 Finance, the Legislative Analyst, and the Joint Legislative
17 Budget Committee when the Legislature is in session.
18 After a 30-day period, the ~~commission~~ *department* shall
19 execute the funding agreements. The ~~commission~~
20 *department* shall submit to the Legislature by April 1 of
21 each year, a list of projects, in priority order, selected and
22 approved during the previous year.

23 SEC. 92. Section 3822.2 of the Public Resources Code
24 is amended to read:

25 3822.2. (a) Notwithstanding any other provision of
26 law, the ~~State Energy Resources Conservation and~~
27 ~~Development Commission~~ *department* may expend
28 funds, from that portion of the Geothermal Resources
29 Development Account used by the ~~commission~~
30 *department* for grants and loans, to provide direct
31 technical assistance to local jurisdictions which are
32 eligible for grants and loans pursuant to Section 3822.

33 (b) The total of all amounts expended pursuant to this
34 section shall not exceed 5 percent of all funds available
35 under Section 3822 or one hundred thousand dollars
36 (\$100,000), whichever amount is less.

37 (c) In making expenditures under this section, the
38 ~~commission~~ *department* shall consider, but not be limited
39 to a consideration of, all of the following:

1 (1) The availability of energy resource and technology
2 opportunities.

3 (2) The project definition and likelihood of success.

4 (3) Local needs and potential project benefits.

5 SEC. 93. Section 4799.16 of the Public Resources Code
6 is amended to read:

7 4799.16. The department shall coordinate its activities
8 and cooperate with the ~~State Energy Resources~~
9 ~~Conservation and Development Commission~~
10 *Department of Energy and Conservation* in the
11 development of surveys, studies, and research
12 concerning the utilization of wood waste and forest
13 growth for energy. The department shall also coordinate
14 its activities with other public and private agencies to
15 insure that the activities of the department and such
16 other agencies are not duplicative and the maximum
17 benefit occurs from actions taken by the department to
18 carry out its responsibilities pursuant to this chapter.

19 SEC. 94. Section 6201 of the Public Resources Code is
20 amended to read:

21 6201. The commission may from time-to-time classify
22 any or all state land for its different possible uses, and,
23 ~~when it is deemed if the commission determines it to be~~
24 advisable, may require the ~~the~~ Department of Parks and
25 Recreation, the Department of *Energy and*
26 Conservation, the ~~Director~~ *Department of Food and*
27 Agriculture, or any other *state agency or officer;*
28 ~~organization, agency or institution of the state~~
29 ~~government~~ to make ~~such~~ *that* classification. It is the duty
30 of any such ~~officer, organization, agency, or institution~~
31 *state agency or officer* to make ~~such~~ *that* classification and
32 to submit a report thereon upon the application of the
33 commission.

34 SEC. 95. Section 6815.2 of the Public Resources Code
35 is amended to read:

36 6815.2. (a) Notwithstanding Section 6815.1, the
37 commission may take any oil, gas, or other hydrocarbons
38 taken in kind by it, pursuant to any lease or agreement,
39 and exchange it, by competitive bidding, for refined
40 products which shall be allocated to state agencies and to

1 other public agencies, if the ~~State Energy Resources~~
2 ~~Conservation and Development Commission~~, established
3 ~~pursuant to Division 15 (commencing with Section~~
4 ~~25000)~~ *Director of Energy and Conservation*, after a
5 public hearing, finds, in ~~its~~ *the director's* judgment, that
6 ~~such~~ *the* retention and allocation is necessary to alleviate
7 fuel shortage conditions or will effect a substantial cost
8 saving to the state.

9 (b) The commission may make and enter into
10 contracts or agreements for *the* exchange of ~~such~~ oil, gas,
11 and other hydrocarbons taken in kind for finished
12 products required for use by state and other public
13 agencies. ~~Such~~ *Those* contracts or agreements shall be
14 entered into by competitive bids. The commission may
15 reject all bids, if ~~it~~ *the commission* determines that ~~they~~
16 *the bids* are not in the public interest.

17 (c) The commission shall charge the state or other
18 public agencies allocated refined products the current
19 market price of these products including all applicable
20 taxes. ~~This~~ *That* price shall not be less than the value of
21 the oil, gas, or other hydrocarbons which would have
22 been received by the state if not taken in kind. The
23 revenue shall be subject to the terms and conditions
24 enumerated in Section 6217. The taxes generated by
25 these sales shall be distributed according to applicable
26 provisions of the Revenue and Taxation Code.

27 (d) The refined products obtained from ~~such~~ *those*
28 exchange contracts or agreements shall be allocated to
29 state agencies and to other public agencies in accordance
30 with the regulations which shall be adopted, after a public
31 hearing, by the ~~State Energy Resources Conservation and~~
32 ~~Development Commission~~ *Director of Energy and*
33 *Conservation*.

34 (e) (1) Notwithstanding Section 6815.1, if the
35 commission determines that it is in the best interests of
36 the state, ~~it~~ *the commission* may allow another state or
37 public agency to take in kind oil, gas, or other
38 hydrocarbons acquired by the commission.

39 (2) The commission shall charge the state or other
40 public agencies allocated in kind oil, gas, or other

1 hydrocarbons the current market price of these products,
2 including all applicable taxes. ~~This~~ *That* price shall not be
3 less than the value of the oil, gas, or other hydrocarbons
4 which would have been received by the state if not taken
5 in kind. The commission may also charge for any
6 transportation, treatment, or other costs associated with
7 taking the in kind royalty. The revenue shall be subject
8 to the terms and conditions enumerated in Section 6217.
9 The taxes generated by these sales shall be distributed
10 ~~according to~~ *in accordance with* applicable provisions of
11 the Revenue and Taxation Code.

12 SEC. 96. Section 9017 of the Public Resources Code is
13 amended to read:

14 9017. "Department" means the Department of
15 *Energy and Conservation*.

16 SEC. 97. Section 9018 of the Public Resources Code is
17 amended to read:

18 9018. "Director" means the Director of *Energy and*
19 *Conservation*.

20 SEC. 98. Section 14584 of the Public Resources Code
21 is amended to read:

22 14584. (a) Operators of reverse vending machines or
23 processors may apply to the California Pollution Control
24 Financing Authority for financing pursuant to Section
25 44526 of the Health and Safety Code, as a means of
26 obtaining capital for establishment of a convenience
27 network. For purposes of Section 44508 of the Health and
28 Safety Code, "project" includes the establishing of a
29 recycling location pursuant to the division.

30 (b) Corporations, companies, or individuals may apply
31 for loan and grant funds from the Energy Technologies
32 Research, Development, and Demonstration Account
33 specified in Section ~~25683~~ 25583 by applying to the ~~State~~
34 ~~Energy Resources Conservation and Development~~
35 ~~Commission~~ *Department of Energy and Conservation* for
36 the purpose of demonstrating equipment for enhancing
37 recycling opportunities.

38 SEC. 99. Section 21080 of the Public Resources Code
39 is amended to read:



21080. (a) Except as otherwise provided in this division, this division shall apply to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits, and the approval of tentative subdivision maps unless the project is exempt from this division.

(b) This division shall not apply to any of the following activities:

(1) Ministerial projects proposed to be carried out or approved by public agencies.

(2) Emergency repairs to public service facilities necessary to maintain service.

(3) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(4) Specific actions necessary to prevent or mitigate an emergency.

(5) Projects which a public agency rejects or disapproves.

(6) Actions undertaken by a public agency relating to any thermal powerplant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for a thermal powerplant, if the powerplant site and related facility will be the subject of an environmental impact report, negative declaration, or other document, prepared pursuant to a regulatory program certified pursuant to Section 21080.5, which will be prepared by the ~~State Energy Resources Conservation and Development Commission~~ *State Energy Facilities Siting Board*, by the Public Utilities Commission, or by the city or county in which the powerplant and related

1 facility would be located if the environmental impact
2 report, negative declaration, or document includes the
3 environmental impact, if any, of the action described in
4 this paragraph.

5 (7) Activities or approvals necessary to the bidding for,
6 hosting or staging of, and funding or carrying out of, an
7 Olympic games under the authority of the International
8 Olympic Committee, except for the construction of
9 facilities necessary for the Olympic games.

10 (8) The establishment, modification, structuring,
11 restructuring, or approval of rates, tolls, fares, or other
12 charges by public agencies which the public agency finds
13 are for the purpose of (A) meeting operating expenses,
14 including employee wage rates and fringe benefits, (B)
15 purchasing or leasing supplies, equipment, or materials,
16 (C) meeting financial reserve needs and requirements,
17 (D) obtaining funds for capital projects necessary to
18 maintain service within existing service areas, or (E)
19 obtaining funds necessary to maintain those intracity
20 transfers as are authorized by city charter. The public
21 agency shall incorporate written findings in the record of
22 any proceeding in which an exemption under this
23 paragraph is claimed setting forth with specificity the
24 basis for the claim of exemption.

25 (9) All classes of projects designated pursuant to
26 Section 21084.

27 (10) A project for the institution or increase of
28 passenger or commuter services on rail or highway
29 rights-of-way already in use, including modernization of
30 existing stations and parking facilities.

31 (11) A project for the institution or increase of
32 passenger or commuter service on high-occupancy
33 vehicle lanes already in use, including the modernization
34 of existing stations and parking facilities.

35 (12) Facility extensions not to exceed four miles in
36 length which are required for the transfer of passengers
37 from or to exclusive public mass transit guideway or
38 busway public transit services.



1 (13) A project for the development of a regional
2 transportation improvement program or the state
3 transportation improvement program.

4 (14) Any project or portion thereof located in another
5 state which will be subject to environmental impact
6 review pursuant to the National Environmental Policy
7 Act of 1969 (42 U.S.C. Sec. 4321 et seq.) or similar state
8 laws of that state. Any emissions or discharges that would
9 have a significant effect on the environment in this state
10 are subject to this division.

11 (15) Projects undertaken by a local agency to
12 implement a rule or regulation imposed by a state agency,
13 board, or commission under a certified regulatory
14 program pursuant to Section 21080.5. Any site-specific
15 effect of the project which was not analyzed as a
16 significant effect on the environment in the plan or other
17 written documentation required by Section 21080.5 is
18 subject to this division.

19 (c) If a lead agency determines that a proposed
20 project, not otherwise exempt from this division, would
21 not have a significant effect on the environment, the lead
22 agency shall adopt a negative declaration to that effect.
23 The negative declaration shall be prepared for the
24 proposed project in either of the following circumstances:

25 (1) There is no substantial evidence in light of the
26 whole record before the lead agency that the project may
27 have a significant effect on the environment.

28 (2) An initial study identifies potentially significant
29 effects on the environment, but (A) revisions in the
30 project plans or proposals made by, or agreed to by, the
31 applicant before the proposed negative declaration and
32 initial study are released for public review would avoid
33 the effects or mitigate the effects to a point where clearly
34 no significant effect on the environment would occur,
35 and (B) there is no substantial evidence in light of the
36 whole record before the lead agency that the project, as
37 revised, may have a significant effect on the
38 environment.

39 (d) If there is substantial evidence in light of the whole
40 record before the lead agency that the project may have

1 a significant effect on the environment, an
2 environmental impact report shall be prepared.

3 (e) Argument, speculation, unsubstantiated opinion
4 or narrative, evidence which is clearly inaccurate or
5 erroneous, or evidence of social or economic impacts
6 which do not contribute to, or are not caused by, physical
7 impacts on the environment, is not substantial evidence.
8 Substantial evidence shall include facts, reasonable
9 assumptions predicated upon facts, and expert opinion
10 supported by facts.

11 (f) As a result of the public review process for a
12 mitigated negative declaration, including administrative
13 decisions and public hearings, the lead agency may
14 conclude that certain mitigation measures identified
15 pursuant to paragraph (2) of subdivision (c) are
16 infeasible or otherwise undesirable. In those
17 circumstances, the lead agency, prior to approving the
18 project, may delete those mitigation measures and
19 substitute for them other mitigation measures that the
20 lead agency finds, after holding a public hearing on the
21 matter, are equivalent or more effective in mitigating
22 significant effects on the environment to a less than
23 significant level and that do not cause any potentially
24 significant effect on the environment. If those new
25 mitigation measures are made conditions of project
26 approval or are otherwise made part of the project
27 approval, the deletion of the former measures and the
28 substitution of the new mitigation measures shall not
29 constitute an action or circumstance requiring
30 recirculation of the mitigated negative declaration.

31 (g) Nothing in this section shall preclude a project
32 applicant or any other person from challenging, in an
33 administrative or judicial proceeding, the legality of a
34 condition of project approval imposed by the lead agency.
35 If, however, any condition of project approval set aside by
36 either an administrative body or court was necessary to
37 avoid or lessen the likelihood of the occurrence of a
38 significant effect on the environment, the lead agency's
39 approval of the negative declaration and project shall be
40 invalid and a new environmental review process shall be



1 conducted before the project can be reapproved, unless
2 the lead agency substitutes a new condition that the lead
3 agency finds, after holding a public hearing on the
4 matter, is equivalent to, or more effective in, lessening or
5 avoiding significant effects on the environment and that
6 does not cause any potentially significant effect on the
7 environment.

8 SEC. 100. Section 21151.1 of the Public Resources
9 Code is amended to read:

10 21151.1. (a) Notwithstanding paragraph (6) of
11 subdivision (b) of Section 21080, or Section 21080.5 or
12 21084, or any other provision of law, except as provided
13 in this section, a lead agency shall prepare or cause to be
14 prepared by contract, and certify the completion of, an
15 environmental impact report or, if appropriate, a
16 modification, addendum, or supplement to an existing
17 environmental impact report, for any project involving
18 any of the following:

19 (1) (A) The burning of municipal wastes, hazardous
20 waste, or refuse-derived fuel, including, but not limited
21 to, tires, if the project is either of the following:

22 (i) The construction of a new facility.

23 (ii) The expansion of an existing facility which burns
24 hazardous waste which would increase its permitted
25 capacity by more than 10 percent.

26 (B) This paragraph does not apply to any project
27 exclusively burning hazardous waste, for which a final
28 determination under Section 21080.1 has been made prior
29 to July 14, 1989.

30 (2) The initial issuance of a hazardous waste facilities
31 permit to a land disposal facility, as defined in subdivision
32 (d) of Section 25199.1 of the Health and Safety Code.

33 (3) The initial issuance of a hazardous waste facilities
34 permit pursuant to Section 25200 of the Health and Safety
35 Code to an offsite large treatment facility, as defined
36 pursuant to subdivision (d) of Section 25205.1 of the
37 Health and Safety Code.

38 (b) For purposes of clause (ii) of subparagraph (A) of
39 subparagraph (B) of paragraph (1) of subdivision (a), the
40 amount of expansion of an existing facility shall be

1 calculated by comparing the proposed facility capacity
2 with whichever of the following is applicable:

3 (1) The facility capacity authorized in the facility's
4 hazardous waste facilities permit pursuant to Section
5 25200 of the Health and Safety Code or its grant of interim
6 status pursuant to Section 25200.5 of the Health and Safety
7 Code, or the facility capacity authorized in any state or
8 local agency permit allowing the construction or
9 operation of a facility for the burning of hazardous waste,
10 granted before January 1, 1990.

11 (2) The facility capacity authorized in the facility's
12 original hazardous waste facilities permit, grant of
13 interim status, or any state or local agency permit
14 allowing the construction or operation of a facility for the
15 burning of hazardous waste, granted on or after January
16 1, 1990.

17 (c) For purposes of paragraphs (2) and (3) of
18 subdivision (a), the initial issuance of a hazardous waste
19 facilities permit does not include the issuance of a closure
20 or postclosure permit pursuant to Chapter 6.5
21 (commencing with Section 25100) of Division 20 of the
22 Health and Safety Code.

23 (d) Paragraph (1) of subdivision (a) does not apply to
24 any project which does any of the following:

25 (1) Exclusively burns digester gas produced from
26 manure or any other solid or semisolid animal waste.

27 (2) Exclusively burns methane gas produced from a
28 disposal site, as defined in Section 40122, which is used
29 only for the disposal of solid waste, as defined in Section
30 40191.

31 (3) Exclusively burns forest, agricultural, wood, or
32 other biomass wastes.

33 (4) Exclusively burns hazardous waste in an
34 incineration unit which is transportable and which is
35 either at a site for not longer than three years or is part
36 of a remedial or removal action. For purposes of this
37 paragraph, "transportable" means any equipment which
38 performs a "treatment" as defined in Section 66216 of
39 Title 22 of the California Code of Regulations, and which



1 is transported on a vehicle as defined in Section 66230 of
2 Title 22 of the California Code of Regulations.

3 (5) Exclusively burns refinery waste in a flare on the
4 site of generation.

5 (6) Exclusively burns in a flare methane gas produced
6 at a municipal sewage treatment plant.

7 (7) Exclusively burns hazardous waste, or exclusively
8 burns hazardous waste as a supplemental fuel, as part of
9 a research, development, or demonstration project
10 which, consistent with federal regulations implementing
11 the Resource Conservation and Recovery Act of 1976, as
12 amended (42 U.S.C. Sec. 6901 et seq.), has been
13 determined to be innovative and experimental by the
14 Department of Toxic Substances Control and which is
15 limited in type and quantity of waste to that necessary to
16 determine the efficacy and performance capabilities of
17 the technology or process; provided, however, that any
18 facility which operated as a research, development, or
19 demonstration project and for which an application is
20 thereafter submitted for a hazardous waste facility
21 permit for operation other than as a research,
22 development, or demonstration project shall be
23 considered a new facility for the burning of hazardous
24 waste and shall be subject to subdivision (a) of Section
25 21151.1.

26 (8) Exclusively burns soils contaminated only with
27 petroleum fuels or the vapors from these soils.

28 (9) Exclusively treats less than 3,000 pounds of
29 hazardous waste per day in a thermal processing unit
30 operated in the absence of open flame, and submits a
31 worst-case health risk assessment of the technology to the
32 Department of Toxic Substances Control for review and
33 distribution to the interested public. This assessment shall
34 be prepared in accordance with guidelines set forth in the
35 Air Toxics Assessment Manual of the California Air
36 Pollution Control Officers Association.

37 (10) Exclusively burns less than 1,200 pounds per day
38 of medical waste, as defined in Section 25023.2 of the
39 Health and Safety Code, on hospital sites.

1 (11) Exclusively burns chemicals and fuels as part of
2 firefighter training.

3 (12) Exclusively conducts open burns of explosives
4 subject to the requirements of the air pollution control
5 district or air quality management district and in
6 compliance with OSHA and Cal-OSHA regulations.

7 (13) Exclusively conducts onsite burning of less than
8 3,000 pounds per day of fumes directly from a
9 manufacturing or commercial process.

10 (14) Exclusively conducts onsite burning of hazardous
11 waste in an industrial furnace that recovers hydrogen
12 chloride from the flue gas if the hydrogen chloride is
13 subsequently sold, distributed in commerce, or used in a
14 manufacturing process at the site where the hydrogen
15 chloride is recovered, and the burning is in compliance
16 with the requirements of the air pollution control district
17 or air quality management district and the Department
18 of Toxic Substances Control.

19 (e) Paragraph (1) of subdivision (a) does not apply to
20 any project for which the ~~State Energy Resources~~
21 ~~Conservation and Development Commission~~ *State*
22 *Energy Facilities Siting Board* has assumed jurisdiction
23 under Chapter 6 12 (commencing with Section 25500
24 25400) of Division 15.

25 (f) Paragraphs (2) and (3) of subdivision (a) shall not
26 apply if the facility only manages hazardous waste which
27 is identified or listed pursuant to Section 25140 or 25141
28 on or after January 1, 1992, but not before that date, or
29 only conducts activities which are regulated pursuant to
30 Chapter 6.5 (commencing with Section 25100) of
31 Division 20 of the Health and Safety Code on or after
32 January 1, 1992, but not before that date.

33 (g) This section does not exempt any project from any
34 other requirement of this division.

35 (h) For purposes of this section, offsite facility means
36 a facility that serves more than one generator of
37 hazardous waste.

38 SEC. 101. Division 15 (commencing with Section
39 25000) of the Public Resources Code is repealed.

1 SEC. 102. Division 15 (commencing with Section
2 25000) is added to the Public Resources Code, to read:

3
4 DIVISION 15. ENERGY CONSERVATION AND
5 DEVELOPMENT

6
7 CHAPTER 1. TITLE AND DECLARATIONS

8
9 25000. This division shall be known, and may be cited,
10 as the Warren-Alquist State Energy Resources
11 Conservation and Development Act.

12 25001. (a) The Legislature finds and declares that, in
13 addition to their other ratepayer protection objectives, a
14 principal goal of electric and natural gas utilities' resource
15 planning and investment shall be to minimize the cost to
16 society of the reliable energy services that are provided
17 by natural gas and electricity, and to improve the
18 environment and to encourage the diversity of energy
19 sources through improvements in energy efficiency and
20 development of renewable energy resources, such as
21 wind, solar, and geothermal energy.

22 (b) The Legislature further finds and declares that, in
23 addition to any appropriate investments in energy
24 production, electrical and natural gas utilities should seek
25 to exploit all practicable and cost-effective conservation
26 and improvements in the efficiency of energy use and
27 distribution that offer equivalent or better system
28 reliability, and which are not being exploited by any other
29 entity.

30 (c) In calculating the cost effectiveness of energy
31 resources, including conservation and load management
32 options, the Department of Energy and Conservation
33 shall include a value for any costs and benefits to the
34 environment, including air quality. The department shall
35 ensure that any values it develops pursuant to this section
36 are consistent with values developed by the Public
37 Utilities Commission pursuant to Section 701.1 of the
38 Public Utilities Code. However, if the department
39 determines that a value developed pursuant to this
40 subdivision is not consistent with a value developed by

1 the Public Utilities Commission pursuant to subdivision
2 (c) of Section 701.1 of the Public Utilities Code, the
3 department may nonetheless use this value if, in the
4 appropriate record of its proceedings, it states its reasons
5 for using the value it has selected.

6 25001.1. (a) (1) The Legislature hereby finds and
7 declares that overdependence on the production,
8 marketing, and consumption of petroleum based fuels as
9 an energy resource in the transportation sector is a threat
10 to the energy security of the state due to continuing
11 market and supply uncertainties. In addition, petroleum
12 use as an energy resource contributes substantially to air
13 pollution, acid rain, global warming, and the degradation
14 of California's marine environment and fisheries.

15 (2) For the purposes of this subdivision, "petroleum
16 based fuels" means fuels derived from liquid unrefined
17 crude oil, including natural gas liquids, liquified
18 petroleum gas, or the energy fraction of
19 methyltertiarybutylether (MTBE) or other ethers that
20 are not attributed to natural gas.

21 (b) Therefore, it is the policy of this state to fully
22 evaluate the economic and environmental costs of
23 petroleum use, and the economic and environmental
24 costs of other transportation fuels, including the costs and
25 values of environmental externalities, and to establish a
26 state transportation energy policy that results in the least
27 environmental and economic cost to the state. In
28 pursuing the "least environmental and economic cost"
29 strategy, it is the policy of the state to exploit all
30 practicable and cost-effective conservation and
31 improvements in the efficiency of energy use and
32 distribution, and to achieve energy security, diversity of
33 supply sources, and competitiveness of transportation
34 energy markets based on the least environmental and
35 economic cost.

36 25001.2. The Legislature hereby finds and declares
37 that electrical energy is essential to the health, safety, and
38 welfare of the people of this state and to the state
39 economy, and that it is the responsibility of state
40 government to ensure that a reliable supply of electrical



1 energy is maintained at a level consistent with the need
2 for electrical energy for protection of public health and
3 safety, for promotion of the general welfare, and for
4 environmental quality protection.

5 25001.3. The Legislature hereby finds and declares
6 that the present rapid rate of growth in the demand for
7 electrical energy is in part due to wasteful, uneconomic,
8 inefficient, and unnecessary uses of power and a
9 continuation of that trend will result in serious depletion
10 or irreversible commitment of energy, land and water
11 resources, and potential threats to the state's
12 environmental quality.

13 25001.4. The Legislature hereby finds and declares
14 that, in planning for future electrical generating and
15 related transmission facilities state, regional, and local
16 plans for land use, urban expansion, transportation
17 systems, environmental protection, and economic
18 development should be considered.

19 25001.5. The Legislature hereby finds and declares
20 that there is a pressing need to accelerate research and
21 development into alternative sources of energy and into
22 improved technology of design and siting of power
23 facilities.

24 25001.6. The Legislature hereby finds that
25 cogeneration technology is a potential energy resource
26 and should be an important element of the state's energy
27 supply mix. The Legislature further finds that
28 cogeneration technology can assist in meeting the state's
29 energy needs while reducing the long-term use of
30 conventional fuels, is readily available for immediate
31 application, and reduces negative environmental
32 impacts. The Legislature further finds and declares that
33 cogeneration technology is important with respect to the
34 providing of a reliable and clean source of energy within
35 the state and that cogeneration technology should
36 receive immediate support and commitment from state
37 government.

38 25001.7. The Legislature hereby finds and declares all
39 of the following:

1 (a) Advanced transportation technologies hold the
2 promise of conserving energy, reducing pollution,
3 lowering traffic congestion, and promoting economic
4 development and jobs in California.

5 (b) There is a pressing need to provide business
6 assistance to California companies engaged in producing
7 and commercializing advanced transportation
8 technologies.

9 (c) It is the policy of the state to provide financial
10 assistance to California companies, particularly small
11 businesses, that are engaged in commercial efforts in the
12 field of advanced transportation technologies.

13 25001.8. The Legislature hereby finds and declares
14 that prevention of delays and interruptions in the orderly
15 provision of electrical energy, protection of
16 environmental values, and conservation of energy
17 resources require expanded authority and technical
18 capability within state government.

19 25001.9. The Legislature hereby finds and declares
20 that information should be acquired and analyzed by the
21 Department of Energy and Conservation to ascertain
22 future energy problems and uncertainties, including, but
23 not limited to, all of the following information:

24 (a) The state's role in the production of oil from
25 domestic reserves, especially within Petroleum
26 Administration for Defense District V.

27 (b) The production of Alaskan North Slope oil and its
28 projected use in the state.

29 (c) Plans of the federal government for the
30 development of oil in the Outer Continental Shelf
31 adjacent to the state.

32 (d) Impacts of petroleum price increases and
33 projected conservation measures on the demand for
34 energy and indirect effects on the need for offshore oil
35 development and Alaskan oil delivery into the state.

36 (e) Potential shipment of Alaskan oil through the
37 state.

38 (f) Proposals for processing petroleum outside the
39 state to supply the needs within the state.



1 (g) The impact on the state of national energy policies,
2 including Project Independence.

3 25002. It is the policy of the state and the intent of the
4 Legislature to establish and consolidate the state's
5 responsibility for energy resources, for encouraging,
6 developing, and coordinating research and development
7 into energy supply and demand problems, and for
8 regulating electrical generating and related transmission
9 facilities.

10 25002.1. It is the policy of the state and the intent of
11 the Legislature to employ a range of measures to reduce
12 wasteful, uneconomical, and unnecessary uses of energy,
13 thereby reducing the rate of growth of energy
14 consumption, prudently conserve energy resources, and
15 ensure statewide environmental, public safety, and land
16 use goals.

17 25002.3. (a) It is the policy of the state and the intent
18 of the Legislature to promote all feasible means of energy
19 and water conservation and all feasible uses of alternative
20 energy and water supply sources.

21 (b) The Legislature finds and declares that the State
22 of California has extensive physical and natural resources
23 available to it at state-owned sites and facilities which can
24 be substituted for traditional energy supplies or which
25 lend themselves readily to the production of electricity or
26 water. Due to increases in energy and water costs, the
27 state's expenditures for energy and water have also
28 increased, adding to the burden on California taxpayers
29 and reducing the amount of funds available for other
30 public purposes.

31 (c) It is in the best interest of the state to use these
32 resources when it can be demonstrated that long-term
33 cost, water, and energy use reduction will result, and
34 where increased independence from other fuel and
35 water sources and development of additional revenues
36 for the state may be obtained.

37 (d) Therefore, in recognition of recent and projected
38 increases in the cost of energy and water from traditional
39 sources, it is the policy of the state to use available
40 resources at state facilities which can substitute for

1 traditional energy and water supplies or produce
2 electricity or water at its facilities when use or production
3 will reduce long-term energy or water expenditures.
4 Criteria used in analysis of proposed actions shall include
5 lifecycle cost evaluation, benefit to taxpayers, reduced
6 fossil fuel or reduced water consumption depending on
7 the application, and improved efficiency. Energy or
8 water facilities at state-owned sites shall be scaled to
9 produce optimal system efficiency and best economic
10 advantage to the state. Energy or water produced may be
11 reserved by the state to meet state facility needs or may
12 be sold to state or nonstate purchasers.

13 (e) Resources and processes which may be used to
14 substitute for traditional energy and water supplies and
15 for the purpose of electrical generation at state facilities
16 include, but are not limited to, cogeneration, biomass,
17 wind, geothermal, vapor compression, water
18 reclamation, and solar technologies.

19 (f) It is the intent of the Legislature that no policy in
20 this section, expressed or implied, be in conflict with
21 existing state or federal regulations regarding the
22 production or sale of electricity or water, and that this
23 policy be just and reasonable to utility ratepayers.

24 25003. (a) The Legislature hereby finds and declares
25 that, to maximize public benefit from private sector
26 participation in state operations and to maximize the
27 ability to devote the limited resources of the state to the
28 responsibilities of state government that are less
29 attractive to private sector investment, it is the policy of
30 the state to encourage third-party financing of energy
31 and water projects, including, but not limited to,
32 cogeneration facilities, at state-owned sites.

33 (b) The Legislature further finds and declares that the
34 development of energy and water projects at
35 state-owned sites can be accelerated where reasonable
36 incentives are provided to the siting institutions. These
37 incentives are necessary to offset the long-term
38 administrative, operational, and technical complexities of
39 energy and water projects developed under this section.



1 (c) Reasonable incentives for implementing the
2 policy of this section shall include the sharing of benefits
3 derived from energy and water projects between the
4 state and the siting institution. The benefits to the state
5 and siting institutions derived from projects
6 implemented under this section may include, but are not
7 limited to, annual cash revenues, avoided capital costs,
8 reduced energy costs, reduced water costs, site
9 improvements, and additional operations and
10 maintenance resources. The annual cash revenues
11 derived from those projects shall be shared equally
12 between the state and the siting institution, if both of the
13 following conditions are met:

14 (1) The use of cash and avoided cost benefits by siting
15 institutions is to be limited to improvement of ongoing
16 maintenance, deferred maintenance, cost-effective
17 energy improvements, and other infrastructure
18 improvements. To the extent an institution receives
19 annual cash revenues under this section, the institution
20 shall retain any money it receives, but not to exceed
21 one-half of this amount, in a special deposit fund account,
22 which shall be continuously appropriated to the
23 institution for the purposes of this section. The state's
24 benefit share, and the siting institution's benefit share
25 that exceeds its needs, shall be deposited in the Energy
26 and Resources Fund or, if this fund is not in existence, the
27 General Fund for the purpose of investing in renewable
28 resources programs and energy efficiency improvements
29 at state facilities.

30 (2) The use of benefits shall be in addition to, and shall
31 not supplant or replace, funding from traditional sources
32 for a siting institution's normal operations and
33 maintenance or capital outlay budgets.

34 (d) The Legislature further finds and declares that a
35 benefit-sharing incentive is applicable to energy projects
36 reported to, or authorized by, the Legislature pursuant to
37 Section 13304 or 14671.6 of the Government Code. This
38 section shall not apply to energy projects which are
39 constructed on or at facilities or property of the State
40 Water Resources Development System.

(e) The Department of General Services shall submit annual reports to the Legislature on the cost benefit aspects in carrying out this section.

(f) This section shall remain in effect only until January 1, 2000, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2000, deletes or extends that date.

CHAPTER 2. DEFINITIONS

25005. Unless the context otherwise requires, the definitions in this chapter govern the construction of this division.

25006. “Account” means the Energy Resources Programs Account, except in Section 25259 or as otherwise provided in this division.

25007. “Applicant” means any person who submits an application for certification pursuant to this division, including, but not limited to, any person who explores for or develops geothermal resources.

25008. “Application” means any request for certification of any site and related facility filed in accordance with the procedures established pursuant to this division. An applicant for a geothermal powerplant and related facilities may propose more than one site and related geothermal facilities in the same application.

25009. “Board” means the State Energy Facilities Siting Board.

25010. “Coastal zone” means the “coastal zone” as defined in Section 30103.

25011. “Cogeneration” means the sequential use of energy for the production of electrical and useful thermal energy. The sequence can be thermal use followed by power production or the reverse, subject to the following standards:

(a) At least 5 percent of the cogeneration project’s total annual energy output shall be in the form of useful thermal energy.

(b) Where useful thermal energy follows power production, the useful annual power output plus one-half

1 the useful annual thermal energy output equals not less
2 than 42.5 percent of any natural gas and oil energy input.

3 25012. “Construction” means onsite work to install
4 permanent equipment or structure for any facility.
5 “Construction” does not include any of the following:

6 (a) The installation of environmental monitoring
7 equipment.

8 (b) A soil or geological investigation.

9 (c) A topographical survey.

10 (d) Any other study or investigation to determine the
11 environmental acceptability or feasibility of the use of the
12 site for any particular facility.

13 (e) Any work to provide access to a site for any of the
14 purposes specified in subdivision (a), (b), (c), or (d).

15 25013. “Conversion” means the processes by which
16 residue is converted to a more usable energy form,
17 including, but not limited to, combustion, anaerobic
18 digestion, and pyrolysis, and is used for heating, process
19 heat applications, and electric power generation.

20 25014. “Demand side management” means any
21 utility program or activity that is intended to reduce the
22 demand for energy products and services or reshape
23 deliberately a utility’s load duration curve.

24 25015. “Department” means the Department of
25 Energy and Conservation.

26 25016. “Director” means the Director of Energy and
27 Conservation.

28 25017. (a) “Electric transmission line” means any
29 electric powerline carrying electric power from a
30 thermal powerplant located within the state to a point of
31 junction with any interconnected transmission system.

32 (b) As defined in subdivision (a), “electric
33 transmission line” does not include any replacement on
34 the existing site of existing electric powerlines with
35 electric powerlines equivalent to those existing electric
36 powerlines or the placement of new or additional
37 conductors, insulators, or accessories related to those
38 electric powerlines on supporting structures in existence
39 on January 7, 1975, or certified pursuant to this division.

1 25018. “Electric utility” means any person engaged
2 in, or authorized to engage in, generating, transmitting,
3 or distributing electric power by any facilities, including,
4 but not limited to, any such person who is subject to the
5 regulation of the Public Utilities Commission.

6 25019. “Energy” means work or heat that is, or may
7 be, produced from any fuel or source whatsoever.

8 25020. “Equivalent certification program” means a
9 program, as further defined in Section 25463,
10 administered by a county and approved by the
11 department, which may substitute for the site and related
12 facility certification procedures established pursuant to
13 this division.

14 25021. “Facility” means any electric transmission line,
15 any thermal powerplant, or any combination thereof,
16 regulated according to this division.

17 25022. “Foreign” means any area outside the 50 states
18 and the District of Columbia.

19 25023. “Fuel” means petroleum, crude oil, petroleum
20 product, coal, natural gas, or any other substance used
21 primarily for its energy content.

22 25024. “Gas utility” means any person engaged in, or
23 authorized to engage in, distributing or transporting
24 natural gas, including, but not limited to, any such person
25 who is subject to the regulation of the Public Utilities
26 Commission.

27 25025. “Geothermal element” means an element of a
28 county general plan consisting of a statement of
29 geothermal development policies, including a diagram or
30 diagrams and text setting forth objectives, principles,
31 standards, and plan proposals, including a discussion of
32 environmental damages and identification of sensitive
33 environmental areas, including unique wildlife habitat,
34 scenic, residential, and recreational areas, adopted
35 pursuant to Section 65303 of the Government Code.

36 25026. “Interested party” means any person who the
37 department or board finds and acknowledges as having
38 a real and direct interest in any proceeding or action
39 carried on, under, or as a result of the operation of, this
40 division.



1 25027. “Jurisdiction of the San Francisco Bay
2 Conservation and Development Commission” means the
3 area defined in Section 66610 of the Government Code.

4 25028. “Load management” means any utility
5 program or activity that is intended to reshape
6 deliberately a utility’s load duration curve.

7 25029. “Major marketer” means any person who sells
8 natural gas or oil in amounts determined by the
9 department as having a major effect on energy supplies.

10 25030. “Major natural gas producer” means any
11 person who produces natural gas in amounts determined
12 by the department as having a major effect on energy
13 supplies.

14 25031. “Major oil producer” means any person who
15 produces oil in amount determined by the department as
16 having a major effect on energy supplies.

17 25032. “Modification of an existing facility” means
18 any alteration, replacement, or improvement of
19 equipment that results in a 50-megawatt or more increase
20 in the electric generating capacity of an existing thermal
21 powerplant or an increase of 25 percent in the peak
22 operating voltage or peak kilowatt capacity of an existing
23 electric transmission line.

24 25033. “Nonresidential building” means any building
25 which is heated or cooled in its interior, and is of an
26 occupancy type other than Type H, I, or J, as defined in
27 the Uniform Building Code, 1973 edition, as adopted by
28 the International Conference of Building Officials.

29 25034. “Notice” means the notice of intent, as further
30 defined in Chapter 12 (commencing with Section 25400),
31 which shall state the intention of an applicant to file an
32 application for certification of any site and related facility.

33 25035. “Person” means any person, firm, association,
34 organization, partnership, business trust, corporation,
35 limited liability company, or company. “Person” also
36 includes any city, county, public district or agency, the
37 state or any department or agency thereof, and the
38 United States to the extent authorized by federal law.

39 25036. “Plan” means the Emergency Load
40 Curtailment and Energy Distribution Plan.

1 25037. “Refiner” means any person who owns,
2 operates, or controls the operations of one or more
3 refineries.

4 25038. “Refinery” means any industrial plant,
5 regardless of capacity, processing crude oil feedstock and
6 manufacturing oil products.

7 25039. “Residential building” means any hotel, motel,
8 apartment house, lodginghouse, single-family dwelling
9 and multifamily dwelling, or other residential building
10 which is heated or mechanically cooled.

11 25040. “Residue” means any organic matter left as
12 residue, such as agricultural and forestry residue,
13 including, but not limited to, conifer thinnings, dead and
14 dying trees, commercial hardwood, noncommercial
15 hardwoods and softwoods, chaparral, burn, mill,
16 agricultural field, and industrial residues, and manure.

17 25041. “Service area” means any contiguous
18 geographic area serviced by the same electric or gas
19 utility.

20 25042. “Site” means any location on which a facility is
21 constructed or is proposed to be constructed.

22 25043. “Solar thermal powerplant” means a thermal
23 powerplant in which 75 percent or more of the total
24 energy output is from solar energy and the use of backup
25 fuels, such as oil, natural gas, and coal, does not, in the
26 aggregate, exceed 25 percent of the total energy input of
27 the facility during any calendar year period.

28 25044. “Suisun Marsh” means the Suisun Marsh, as
29 defined in Section 29101.

30 25045. (a) “Thermal powerplant” means any
31 stationary or floating electrical generating facility using
32 any source of thermal energy, with a generating capacity
33 of 50 megawatts or more, and any facilities appurtenant
34 thereto. Exploratory, development, and production
35 wells, resource transmission lines, and other related
36 facilities used in connection with a geothermal
37 exploratory project or a geothermal field development
38 project are not appurtenant facilities for the purposes of
39 this division.



1 (b) “Thermal powerplant” does not include any wind,
2 hydroelectric, or solar photovoltaic electrical generating
3 facility.

4
5 CHAPTER 3. DEPARTMENT OF ENERGY AND
6 CONSERVATION
7

8 25050. (a) (1) The State Energy Resources
9 Conservation and Development Commission in the
10 Resources Agency is abolished.

11 (2) The California Energy Extension Service of the
12 Office of Planning and Research is abolished.

13 (3) The California Energy Extension Service is hereby
14 created in the department.

15 (b) No suit, action, or other proceeding that is lawfully
16 commenced by or against the former commission or
17 former extension service, or against any of its officers or
18 employees, in relation to the administration of any
19 program or the discharge of any power, duty,
20 responsibility, or jurisdiction of the former commission or
21 former extension service, shall abate by reason of the
22 abolishment of the commission or extension service.

23 25051. (a) (1) Except as provided in subdivision (b),
24 the department succeeds to, and is vested with, all of the
25 powers, duties, responsibilities, and jurisdiction vested in
26 the former State Energy Resources Conservation and
27 Development Commission. The director may exercise
28 any of those functions directly or may administratively
29 organize the department pursuant to Section 607 to
30 perform any of those functions.

31 (2) The California Energy Extension Service of the
32 department succeeds to, and is vested with, all of the
33 powers, duties, responsibilities, and jurisdiction vested in
34 the former California Energy Extension Service of the
35 Office of Planning and Research.

36 (b) The board succeeds to, and is vested with, all of the
37 powers, duties, responsibilities, and jurisdiction vested in
38 the former State Energy Resources Conservation and
39 Development Commission with regard to energy facility
40 and site certification, as provided in the division.

(c) (1) Whenever any reference is made in any law to the former State Energy Resources Conservation and Development Commission pertaining to a power, duty, responsibility, or jurisdiction succeeded to, and vested in, the department pursuant to paragraph (1) of subdivision (a), the reference shall be deemed to be a reference to, and to mean, the department.

(2) Whenever any reference is made in any law to the former California Energy Extension Service of the Office of Planning and Research, the reference shall be deemed to be a reference to, and to mean, the California Energy Extension Service of the department.

(3) Whenever any reference is made in any law to the former State Energy Resources Conservation and Development Commission pertaining to a power, duty, responsibility, or jurisdiction succeeded to, and vested in, the board pursuant to subdivision (b), the reference shall be deemed to be a reference to, and to mean, the board.

25052. (a) Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code applies to the director, except that, notwithstanding Section 11157 of the Government Code, the director may, for purposes of this division, employ legal counsel who shall advise the department and the board and represent the department and the board in connection with legal matters and litigation before any state or federal agency.

(b) The director may appoint, for purposes of this division, in accordance with the laws applicable to the civil service system, deputies, officers, and other employees that may be necessary. The director may also appoint staff to serve the board in the conduct of proceedings relating to the siting of energy facilities and to serve the department and the board in any other proceedings that may be necessary.

25054. The director, with the approval of the Director of Finance, may accept, on behalf of the department or its divisions, federal grants for purposes of this division. Those grants shall be deposited in the Special Deposit Fund created pursuant to Section 16370 of the

1 Government Code, and may be expended under the
2 terms and conditions required by the federal
3 government.

4 25055. (a) The director or the board, as the case may
5 be, shall adopt rules and regulations, as necessary, to carry
6 out this division in accordance with Chapter 3.5
7 (commencing with Section 11340) of Part 1 of Division 3
8 of Title 2 of the Government Code.

9 (b) Where rules and regulations are made the
10 responsibility of the board, the director may issue all
11 necessary notices and make all necessary filings on behalf
12 of the board without formal board action, except that the
13 director may not file for approval by the Office of
14 Administrative Law any regulation or amendment to a
15 regulation requiring board approval unless the board has
16 publicly met and approved the regulation or
17 amendment.

18 (c) The director shall make available to any person,
19 upon request, copies of proposed regulations or
20 amendments to regulations, together with summaries of
21 reasons supporting adoption.

22 (d) Any regulation or other action, adopted,
23 prescribed, taken, or performed by any state agency that
24 pertains to, or in any way affects any authority that the
25 department or the board has derived from that state
26 agency shall remain in full force and effect as if those
27 regulations or actions had been adopted, prescribed,
28 taken, or performed by the department or the board, as
29 the case may be, until that time as the department or the
30 board shall amend or repeal the regulation or action.

31 (e) Any rulemaking proceeding that is commenced
32 but not completed by any state agency on the effective
33 date of this section may be completed by the department
34 or the board and the rulemaking record and other
35 necessary documents may be compiled as if no transfer of
36 authority had occurred.

37 25056. In addition to any other responsibilities
38 specified in this division, the department shall do all of the
39 following:

1 (a) Undertake a continuing assessment of trends in the
2 consumption of electrical energy and other forms of
3 energy and analyze the social, economic, and
4 environmental consequences of those trends; carry out
5 directly, or cause to be carried out, energy conservation
6 measures specified in Chapter 7 (commencing with
7 Section 25200); and recommend to the Governor and the
8 Legislature new and expanded energy conservation
9 measures as required to meet the objectives of this
10 division.

11 (b) Collect, from electric utilities, gas utilities, and fuel
12 producers and wholesalers and other sources, forecasts of
13 future supplies and consumption of all forms of energy,
14 including electricity, and of future energy or fuel
15 production and transporting facilities to be constructed;
16 independently analyze those forecasts in relation to
17 statewide estimates of population, economic, and other
18 growth factors and in terms of the availability of energy
19 resources, costs to consumers, and other factors; and
20 formally specify statewide and service area electrical
21 energy demands to be utilized as a basis for planning the
22 siting and design of electric power generating and related
23 facilities.

24 (c) Carry out, or cause to be carried out, under
25 contract or other arrangement, research and
26 development into alternative sources of energy,
27 improvements in energy generation, transmission, and
28 siting, fuel substitution, and other topics related to energy
29 supply, demand, public safety, ecology, and conservation
30 which are of particular statewide importance.

31 25057. (a) The department shall compile relevant
32 local, regional, state, and federal land use, public safety,
33 environmental, and other standards to be met in
34 designing, siting, and operating facilities in this state;
35 except as provided in subdivision (d) of Section 25204,
36 adopt standards, except for air and water quality, to be
37 met in designing or operating facilities to safeguard
38 public health and safety, which may be different from, or
39 more stringent than, those adopted by local, regional, or
40 other state agencies, or by any federal agency if



1 permitted by federal law; and monitor compliance and
2 ensure that all facilities are operated in accordance with
3 this division.

4 (b) The local, regional, and other state agencies shall
5 advise the department as to any change in its standards,
6 ordinances, or laws which are pertinent and relevant to
7 the objective of carrying out this division.

8 25058. The department shall do all of the following:

9 (a) Upon authorization of the board, prescribe the
10 form and content of applications for facilities; conduct
11 public hearings and take other actions to secure adequate
12 evaluation of applications; and formally act to approve or
13 disapprove applications, including specifying conditions
14 under which approval and continuing operation of any
15 facility shall be permitted.

16 (b) Prepare an integrated plan specifying actions to be
17 taken in the event of an impending serious shortage of
18 energy, or a clear threat to public health, safety, or
19 welfare.

20 (c) Evaluate policies governing the establishment of
21 rates for electric power and other sources of energy as
22 related to energy conservation, environmental
23 protection, and other goals and policies established in this
24 division, and transmit recommendations for changes in
25 power-pricing policies and rate schedules to the
26 Governor, the Legislature, to the Public Utilities
27 Commission, and to publicly owned electric utilities.

28 (d) Serve as a central repository within the state
29 government for the collection, storage, retrieval, and
30 dissemination of data and information on all forms of
31 energy supply, demand, conservation, public safety,
32 research, and related subjects. The data and information
33 shall be derived from all sources, including, but not be
34 limited to, electric and gas utilities, oil and other energy
35 producing companies, institutions of higher education,
36 private industry, public and private research laboratories,
37 private individuals, and from any other source that the
38 department determines is necessary to carry out its
39 objectives under this division. The department may
40 charge and collect a reasonable fee for retrieving and

1 disseminating any such information to cover the cost of
2 such a service. Any funds received by the department
3 pursuant to this subdivision shall be deposited in the
4 account and are continuously appropriated for
5 expenditure, by the department, for purposes of
6 retrieving and disseminating any such information
7 pursuant to this section.

8 25059. For purposes of this division, the director shall
9 employ and prescribe the duties of staff members as
10 necessary to carry out this division. Staff members of the
11 department may participate in all matters before the
12 department to the limits prescribed by the department.

13 25060. In addition to any other authority specified in
14 this division, the department may do any of the following:

15 (a) Apply for and accept grants, contributions, and
16 appropriations.

17 (b) Contract for professional services if the work or
18 services cannot be satisfactorily performed by its
19 employees or by any other state agency.

20 (c) Be sued and sue.

21 (d) Request and utilize the advice and services of all
22 federal, state, regional, and local agencies.

23 (e) Adopt any rule or regulation, or take any action,
24 that the department determines to be reasonable and
25 necessary to carry out this division.

26 (f) Adopt regulations, or take any action, that the
27 department determines to be reasonable and necessary
28 to ensure the free and open participation of any member
29 of the staff in proceedings before the department.

30 25061. Provisions specifying any power or duty of the
31 department shall be liberally construed, to carry out the
32 objectives of this division.

33 25062. As to any matter involving the federal
34 government, or its agencies, which is within the scope of
35 the powers and duties of the department or the board, the
36 department or the board, as the case may be, may
37 represent its interest or the interest of any county, city,
38 state agency, or district upon its request, and, to that end,
39 may correspond, confer, and cooperate with the federal
40 government and its agencies.



1 25063. The department may participate as a party, to
2 the extent that the department shall determine, in any
3 proceeding before any federal or state agency having
4 authority whatsoever to approve or disapprove any
5 aspect of a proposed facility, receive notice from any
6 applicant of all applications and pleadings filed
7 subsequently by those applicants in any such
8 proceedings, and, by its request, receive copies of any of
9 such subsequently filed applications and pleadings that
10 the department shall determine to be necessary.

11 25064. Upon request of the department, the Attorney
12 General shall represent the department and the board in
13 litigation concerning affairs of the department or the
14 board, as the case may be, unless the Attorney General
15 represents another state agency, in which case the
16 department shall be authorized to employ other legal
17 counsel.

18 25065. The department shall make available any
19 information filed or submitted pursuant to this division
20 under the California Public Records Act (Chapter 3.5
21 (commencing with Section 6250) of Division 7 of Title 1
22 of the Government Code), except that the department
23 shall keep confidential any information submitted to the
24 Division of Oil, Gas, and Geothermal Resources of the
25 department which that division determines, pursuant to
26 Section 3752, to be proprietary.

27 25066. The department, as to energy resources
28 conservation and development, and the board, as to
29 energy facility and site certification, and all other state
30 agencies, shall, to the fullest extent possible, exchange
31 records, reports, material, and other information relating
32 to those matters, or any other areas of mutual concern, to
33 the end that unnecessary duplication of effort may be
34 avoided.

35
36 CHAPTER 4. STATE ENERGY FACILITIES SITING BOARD
37

38 25100. (a) There is in the department the State
39 Energy Facilities Siting Board. The board shall be
40 composed of the following five persons:

1 (1) The director, or the director's designee, as
2 specified in subdivision (b) of Section 25105.

3 (2) The President of the Public Utilities Commission,
4 or the president's designee, as specified in subdivision (c)
5 of Section 25105.

6 (3) One member appointed by the Governor who
7 shall be from the public at large.

8 (4) The Secretary of the Resources Agency, or his or
9 her designee.

10 (5) The Secretary for Environmental Protection, or
11 his or her designee.

12 (b) Only persons who are exempt from civil service
13 shall be eligible to be a member of the board. The
14 director, or his or her designee, shall chair the board. The
15 director shall provide the necessary staff support to the
16 board.

17 (c) The public member of the board appointed
18 pursuant to paragraph (3) of subdivision (a) shall receive
19 one hundred dollars (\$100) for each day that the public
20 member is engaged in official duties as a member of the
21 board and, in addition, shall be reimbursed for any
22 reasonable and necessary expenses incurred in the
23 performance of the public member's official duties in
24 accordance with the regulations of the Department of
25 Personnel Administration.

26 25101. The board shall nominate and the Governor
27 shall appoint for a term of three years, a public adviser to
28 the board and the department who shall be an attorney
29 admitted to the practice of law in this state and who shall
30 ensure that full and adequate participation by all
31 interested groups and the public at large is secured in the
32 site and facility certification and rulemaking proceedings
33 provided in this division. The public adviser shall ensure
34 that timely and complete notice of board meetings and
35 public hearings and workshops held by the board or the
36 department is disseminated to all interested groups and
37 to the public at large. The public adviser shall also advise
38 those groups and the public as to effective ways of
39 participating in the proceedings of the board and the
40 department. The public adviser shall recommend to the



1 board and the department additional measures to ensure
2 open consideration and public participation in energy
3 planning, site and facility certification, energy
4 conservation, and emergency allocation proceedings.
5 The public adviser may be removed from office only
6 upon the joint concurrence of a majority of board
7 members and the Governor.

8 25102. The meetings of the board shall be open to the
9 public and noticed pursuant to the Bagley-Keene Open
10 Meeting Act (Article 9 (commencing with Section 11120)
11 of Chapter 1 of Part 1 of Division 3 of Title 2 of the
12 Government Code), except that, if the board fails to
13 complete the published agenda of a meeting during the
14 date on which the meeting was to occur, the board may
15 reschedule that meeting, without further publication of
16 the agenda, to any date that is convenient to the members
17 of the board by publicly announcing the date and place
18 for the conduct of the remaining agenda items of the
19 rescheduled meeting and by posting the date and time of
20 the rescheduled meeting on the door of the meeting
21 room. The chairperson shall schedule meetings of the
22 board at any times that are necessary to permit the board
23 to perform its functions in a timely manner.

24 25103. The board shall be responsible for energy
25 facility and site certification determinations pursuant to
26 Chapter 12 (commencing with Section 25400). The board
27 shall, in accordance with Section 25056, adopt and
28 implement regulations governing the conduct of
29 proceedings for energy facility and site certification,
30 including information requirements for applications.

31 25104. Each member of the board shall have one vote.
32 The affirmative votes of at least three members shall be
33 required for the transaction of any business of the board.

34 25105. (a) Upon the filing of every facility siting
35 application with the board, the director shall designate
36 staff to conduct all necessary hearings and transmit a
37 recommended decision to the board, and shall designate
38 a member of the board who shall attend all hearings and
39 provide policy guidance to the staff.

1 (b) The director may designate the chief deputy
2 director, the deputy director, or any assistant director of
3 the department to serve on the board as the director's
4 designee pursuant to Section 25100.

5 (c) The President of the Public Utilities Commission
6 may designate any member of the Public Utilities
7 Commission to serve on the board as the president's
8 designee pursuant to paragraph (2) of subdivision (a) of
9 Section 25100.

10 (d) All facility siting hearings shall be duly noticed and
11 open to the public.

12 25106. Any application for certification filed with the
13 former State Energy Resources Conservation and
14 Development Commission that has not obtained final
15 action approving or disapproving that application before
16 January 1, 1996, shall continue to be processed by the
17 board under the same schedule established for the
18 proceeding as it was being processed by the former
19 commission. The administrative record of the proceeding
20 shall be carried over and the board shall make its decision
21 based on the complete record of proceedings that
22 occurred both before the former commission and the
23 board.

24

25 CHAPTER 5. PLANNING AND FORECASTING

26

27 25125. Every electric utility in the state shall prepare
28 and transmit to the department a report specifying 5-, 12-,
29 and 20-year forecasts or assessments of loads and
30 resources for its service area. Commencing in 1985, and
31 every two years thereafter, the report shall be submitted
32 to the department on or before June 1. The report shall
33 set forth the facilities which, as determined by the electric
34 utility, will be required to supply electric power during
35 the forecast or assessment periods. The report shall be in
36 a form specified by the department and shall include all
37 of the following:

38 (a) A tabulation of estimated peakloads, resources,
39 and reserve margins for each year during the 5- and
40 12-year forecast or assessment periods, and an estimate of



1 peakload, resources, and reserve margins for the last year
2 in the 20-year forecast or assessment period.

3 (b) A list of existing electric generating plants in
4 service, with a description of planned and potential
5 generating capacity at existing sites.

6 (c) A list of facilities which will be needed to serve
7 additional electrical requirements identified in the
8 forecasts or assessments, the general location of the
9 facilities, and the anticipated types of fuel to be utilized
10 in the proposed facilities.

11 (d) A description of additional system capacity which
12 might be achieved through, among other things,
13 improvements in (1) generating or transmission
14 efficiency, (2) importation of power, (3) interstate or
15 interregional pooling, and (4) other improvements in
16 efficiencies of operation.

17 (e) An estimation of the availability and cost of fuel
18 resources for the 5-, 12-, and 20-year forecast or
19 assessment periods with a statement by the electric utility
20 describing firm commitments for supplies of fuel
21 required during the forecast or assessment periods.

22 (f) An annual load duration curve and a forecast of
23 anticipated peakloads for each forecast or assessment
24 period for the residential, commercial, industrial, and
25 other major demand sectors in the service area of the
26 electric utility as determined by the department.

27 (g) A description of projected population growth,
28 urban development, industrial expansion, and other
29 growth factors influencing increased demand for electric
30 energy and the bases for these projections.

31 (h) A description of the conservation programs in the
32 residential, commercial, and industrial sectors being
33 pursued by the utility, including load management
34 standards adopted by the department pursuant to Section
35 25213; and a statement specifying the extent to which
36 those programs are achieving enhanced energy
37 efficiency and conservation and the extent to which those
38 programs do not, in the utility's evaluation, mitigate the
39 need for additional facilities.

1 25126. The department shall establish and every
2 electric utility shall utilize, for purposes of the report, a
3 common methodology for preparing forecasts of future
4 loads and resources. After applying the department's
5 established methodology to the mandatory elements of
6 the report specified in Section 25125, any electric utility
7 may transmit to the department supplementary
8 information and forecasts based upon an alternative
9 methodology. If that alternate methodology is employed,
10 the electric utility shall fully describe the data and other
11 components of the methodology, and shall specify the
12 reasons why the approach is considered more accurate
13 than that established by the department. The
14 department may waive the requirements of subdivision
15 (d) or (g) of Section 25125 for any electric utility which
16 the department determines is not primarily engaged in
17 the business of generating or selling electricity, when the
18 department determines that the collection and
19 accumulation of any such information from such electric
20 utilities is unnecessary for purposes of carrying out this
21 chapter.

22 25127. Upon receipt of a report required under
23 Section 25125 from an electric utility, the department
24 shall forward copies thereof to the Legislature, the Public
25 Utilities Commission, the Secretary of the Resources
26 Agency, the Director of the Office of Planning and
27 Research, the California Coastal Commission, and other
28 concerned state and federal agencies. The report shall
29 also be made available, at cost, to any person upon
30 request. The department shall request each city and
31 county within the service area covered by the report to
32 review and comment on the report in relation to
33 estimates of population growth and economic
34 development, patterns of land use and open space, and
35 conservation and other appropriate elements of the
36 adopted city or county general plan. Upon request, the
37 department shall forward without charge a copy of the
38 report to any interested city or county. A copy of the
39 report shall be maintained on file for public inspection in
40 each county.



1 25128. For a period of two months after the receipt of
2 the reports required under Section 25125, the
3 department shall receive the comments of any person on
4 the reports. Within that period, the Public Utilities
5 Commission shall submit its independent evaluation and
6 analysis of the reports to the department.

7 25129. (a) The department shall review and evaluate
8 the electric utilities' forecasts of loads and resources, and
9 the comments of the Public Utilities Commission on those
10 forecasts, in relation to the population growth estimates
11 prepared by the Department of Finance, Population
12 Research Unit, and in relation to statewide and regional
13 land use, transportation, and economic development
14 programs and forecasts. The department shall also
15 examine the implications of the forecast level of loads and
16 resources on, among other things, all of the following:

17 (1) Critical environmental and other resources of the
18 state, including air and water quality, coastal, natural, and
19 other unique areas, and energy resources.

20 (2) Public health and safety, general welfare, and the
21 state's economy.

22 (3) Capital requirements for new facilities and costs to
23 consumers of electricity and other forms of energy.

24 (4) Other significant factors which relate to the
25 provision of electrical energy in the amounts and in the
26 manner proposed by the electric utilities.

27 (b) The department shall also identify reasonable
28 alternative technologies to those proposed by the electric
29 utilities for consideration pursuant to Section 25505.

30 25130. Within nine months after receipt of the reports
31 specified in Section 25125, the department shall prepare
32 and distribute a draft electricity report, setting forth its
33 findings and conclusions regarding the electric utilities'
34 forecasts. The report shall be based upon information and
35 views presented in the comments received under Section
36 25128 and the department's independent analysis, and
37 shall contain all of the following:

38 (a) The department's evaluation of the probable
39 service area and statewide, environmental, and economic
40 impact and the health and safety aspect of constructing

1 and operating the facilities proposed by the electric
2 utilities and a description of the measures considered
3 necessary by the department to avoid or ameliorate any
4 adverse impacts.

5 (b) Discussion of reasonable alternative technologies
6 to those proposed by the electrical utilities for
7 consideration pursuant to Section 25505.

8 (c) After consideration of the utility reports, public
9 and agency comments, and forecasts prepared by the
10 department staff, the department's 5- and 12-year
11 forecasts of demand for electrical energy and capacity.
12 Conservation, load management, or other demand
13 reducing measures reasonably expected to occur shall be
14 explicitly taken into account only in the determinations
15 made pursuant to this subdivision, and shall not be
16 considered as alternatives to a proposed facility during
17 the siting process specified in Chapter 12 (commencing
18 with Section 25400).

19 (d) An analysis and evaluation of the means by which
20 the projected annual rate of demand growth of electrical
21 energy may be reduced, together with an estimate of the
22 amount of the reduction to be obtained by each of the
23 means analyzed and evaluated, including a statement of
24 the impact of the reduction on the factors reviewed by
25 the department set forth in Section 25129 and subdivision
26 (a).

27 (e) A statement of the level of statewide and service
28 area electrical energy demand for the forthcoming 5- and
29 12-year forecast or assessment period which, in the
30 judgment of the department, will reasonably balance
31 requirements of state and service area growth and
32 development, protection of public health and safety,
33 preservation of environmental quality, maintenance of a
34 sound economy, and conservation of energy and
35 resources reasonably expected to occur. The 5- and
36 12-year forecasts or assessments established by the
37 department shall serve as the basis for planning and
38 certification of facilities.

39 (f) A statement, on a statewide and service area basis,
40 of the probable capacity additions consistent with the



1 level of demand determined by the department pursuant
2 to subdivision (e).

3 (g) The anticipated level of statewide and service area
4 electrical energy demand for 20 years, which shall serve
5 as the basis for recommendations by the department to
6 the Governor, the Legislature, and other appropriate
7 public and private agencies in all of the following
8 categories:

9 (1) Demand-reducing policies.

10 (2) Conservation of energy.

11 (3) Development of potential sources of energy.

12 (4) Other policies and actions designed to affect the
13 rate of growth in demand for electrical energy.

14 (h) A list, including maps, of existing electrical power
15 generating sites, indicating those where the department
16 has determined that expansion is feasible within the
17 forthcoming 12-year period.

18 (i) A list, including maps, of possible areas appropriate
19 for additional electrical generating sites, including the
20 generating capacity to be installed at the sites and the
21 type of fuel and other general characteristics of the
22 facilities which, as determined by the department, will be
23 required to meet the 12-year level of electrical energy
24 demand established by the department pursuant to
25 subdivision (a).

26 (j) A list, including maps of sites and potential
27 multiple-facility sites which have been found to be
28 acceptable by the department pursuant to Sections 25425
29 and 25427, including the generating capacity to be
30 installed at each site and the type of fuel and other
31 general characteristics of the facilities at each site.

32 25131. The department shall distribute the report
33 required under Section 25130 to the same persons, and
34 under the same conditions, as prescribed in Section 25127.

35 25132. Within three months after distribution of the
36 department's draft electricity report pursuant to Section
37 25130, the department shall hold public hearings of which
38 at least one shall be in the City of Sacramento to obtain
39 the views and comments of the electric utilities,
40 governmental agencies, private groups, and any other

1 person on the department's proposals and
2 recommendations in the draft electricity report.

3 25133. In conducting hearings in the development of
4 its draft, draft final, and final electricity reports prepared
5 under this chapter, the department shall use all of the
6 following procedures:

7 (a) The department shall establish a schedule for
8 hearing matters relating to electricity report issues,
9 including a schedule for the submission of reports and
10 testimony by the department staff, electric utilities, and
11 intervenors, and rebuttal witnesses for those parties. The
12 schedule shall provide for at least 14 days between the
13 mailing of all submittals and the conducting of any
14 hearing thereon. The schedule may be amended from
15 time to time by the department if the amended schedule
16 provides adequate time for parties to review reports and
17 testimony.

18 (b) The schedule shall provide all of the following:

19 (1) One or more prehearing conferences for the
20 purpose of permitting parties to identify factual issues
21 involved in creating a sufficient foundation for the
22 electricity report.

23 (2) A hearing order identifying the factual issues that
24 will be considered in hearings to develop a record
25 supporting the electricity report.

26 (3) One or more quasi-legislative evidentiary hearings
27 to form a record for the department's decisions on the
28 factual issues which it determines are necessary to form
29 the factual foundation for the electricity report, during
30 which all testimony shall be given under oath and subject
31 to reasonable cross examination. Where testimony is
32 provided that involves the opinion of an expert, the
33 witness shall, in the testimony, establish his or her
34 qualifications with respect to the matters submitted. The
35 department shall also provide an opportunity for public
36 comment on the policy choices and recommendations in
37 the electricity report at one or more nonevidentiary
38 hearings prior to adoption of the final report.

39 (c) All documentation developed by or submitted to
40 the department in support of reports or testimony shall

1 be made available to interested parties within 10 days of
2 a request therefor.

3 (d) The office of the public advisor shall facilitate
4 adherence to the schedule and the participation of
5 interested parties at all hearings.

6 (e) A written transcript of all the hearings shall be
7 made and copies shall be made available within three
8 days of receipt of the transcription by the department.

9 (f) Upon request of any party who indicates his or her
10 willingness to pay the added cost of obtaining an
11 expedited transcript, the department shall direct the
12 reporter to provide an official transcript on an expedited
13 basis.

14 (g) At the request of any party in the proceedings, all
15 applicable laws and regulations, both federal and state,
16 and relevant Public Utilities Commission decisions, shall
17 be incorporated by reference into the hearing record in
18 accordance with the rules of official notice.

19 (h) The department may, by regulation or order,
20 adopt further procedures, consistent with this section, for
21 the adoption of the electricity report. The adoption of the
22 electricity report shall be governed by the procedures
23 specified in this section, and any additional procedures
24 adopted by the department, and shall not be governed by
25 Chapter 3.5 (commencing with Section 11340) of Part 1
26 of Division 3 of Title 2 of the Government Code.

27 25134. Within 12 months after receipt of the reports
28 required in Section 25125, the department shall publish
29 and distribute for public comment its draft final report on
30 the electric utilities' forecasts and on the department's
31 independent analyses and evaluations, as specified in
32 Section 25130. The published draft final electricity report
33 shall contain the department's adopted electricity
34 forecast. The department shall accept public comment
35 on the draft final report for not more than 90 days and,
36 after one or more public hearings, shall adopt the final
37 electricity report within 15 months after receipt of the
38 utility reports required by Section 25125. The final
39 electricity report shall take effect on the day it is adopted
40 by the department.

1 25135. (a) In developing the electricity report, the
2 department shall, after providing an opportunity for
3 parties to submit recommendations, establish criteria for
4 determining demand conformance for the siting of
5 facilities.

6 (b) In issuing the final electricity report, the
7 department shall describe how the hearing record
8 supports its policy decisions, including, but not limited to,
9 the demand and supply forecasts and the demand
10 conformance criteria.

11 25136. Beginning May 1, 1985, and every two years
12 thereafter, the department shall transmit to the
13 Governor and the Legislature a comprehensive report
14 designed to identify emerging trends related to energy
15 supply, demand, and conservation and public health and
16 safety factors, and to provide the basis for state policy and
17 actions in relation thereto, including, but not limited to,
18 approval of new sites for additional facilities. The report
19 shall include, but not be limited to, all of the following:

20 (a) An overview, looking 20 years ahead, of statewide
21 growth and development as they relate to future
22 requirements for energy, including patterns of urban
23 metropolitan expansion, statewide and service area
24 economic growth, shifts in transportation modes,
25 modifications in building types and design, and other
26 trends and factors which, as determined by the
27 department, will significantly affect energy consumption
28 and need to be considered in formulating state energy
29 policy and programs.

30 (b) The department's integrated assessment of the
31 need for new resource additions, as determined pursuant
32 to subdivisions (a) to (f), inclusive, of Section 25130 and
33 adopted in its final report pursuant to Section 25134,
34 which shall be used as the basis of planning and approval
35 of new resource additions, including the level of
36 statewide and service area electrical energy demand for
37 the forthcoming 5- and 12-year forecasts or assessment
38 periods which, in the judgment of the department, will
39 reasonably balance the requirements of state and service
40 area growth and development, the protection of the



1 public health and safety, the preservation of
2 environmental quality, the maintenance of a sound
3 economy, and the conservation of resources.

4 (c) A statement, on a statewide and service area basis,
5 of the probable capacity additions consistent with the
6 level of demand determined by the department pursuant
7 to Sections 25130 to 25134, inclusive.

8 (d) The anticipated level of statewide and service area
9 electrical energy demand for 20 years, which shall serve
10 as the basis for recommendations by the department to
11 the Governor, the Legislature, and other appropriate
12 public and private agencies.

13 (e) Based upon the department's 20-year forecasts or
14 assessment of growth trends in energy consumption and
15 production, identification of potential adverse social,
16 economic, or environmental impacts which might be
17 imposed by continuation of the present trends, including,
18 but not limited to, the costs of electricity and other forms
19 of energy to consumers, significant increases in air, water,
20 and other forms of pollution, threats to public health and
21 safety, and loss of scenic and natural areas.

22 (f) Assessment of the energy resources available to the
23 state, including among others, fossil fuels and nuclear,
24 solar, geothermal, cogeneration, and purchased power
25 resources and power pooling; assessment of the potential
26 of, and examination of the availability of, commercially
27 developable fuels, including imported fuels, during the
28 forthcoming 12- and 20-year periods; and
29 recommendations regarding measures to be applied to
30 conserve energy and fuels.

31 (g) An analysis and evaluation of the means by which
32 the projected annual rate of demand growth of energy
33 may be reduced, together with an estimate of the amount
34 of the reduction to be obtained by policies and programs
35 evaluated pursuant to Section 25202.

36 (h) An indication of those technologies which merit
37 continued consideration or support in the department's
38 long range assessment efforts and its research and
39 development program. The report shall also indicate
40 those electrical generation and nongeneration

1 technologies which have been found to be commercially
2 available or reasonably expected to become available
3 pursuant to Section 25505.

4 (i) A description of the department's responsibilities
5 and recommendations for emergency measures to be
6 applied in the event of impending serious shortage of
7 electrical and other forms of energy as provided in
8 Chapter 20 (commencing with Section 25625) and
9 evaluated under subdivision (b) of Section 25180.

10 (j) Recommendations to the Governor and the
11 Legislature for administrative and legislative actions
12 based on the results of department studies and
13 evaluations.

14 25137. Commencing January 1, 1992, as part of the
15 biennial report required by Section 25136, the
16 department shall include a forecast of statewide and
17 regional transportation energy demand for a 5-, 12-, and
18 20-year planning horizon for the following scenarios:

19 (a) A forecast of energy use reasonably expected to
20 occur through currently planned and adopted energy
21 efficiency, conservation, and alternative fuels programs.

22 (b) A forecast of energy use under a maximum
23 petroleum use reduction scenario, assuring achievement
24 of maximum feasible transportation energy efficiency
25 and conservation measures and maximum feasible fuel
26 diversity.

27 (c) A forecast of energy use under a "least
28 environmental and economic cost" scenario, including
29 the costs and values of externalities. The least
30 environmental and economic cost scenario shall, in
31 addition to conventional economic data, utilize
32 assessments of costs and values associated with
33 environmental quality, life-cycle energy and
34 environmental costs, energy diversity, and energy
35 security, and to the extent feasible integrate the costs and
36 values associated with the following:

37 (1) Air pollution, water pollution, global warming, and
38 other adverse environmental impacts of transportation
39 energy exploration, development, production, and use.



1 (2) Future price changes in energy resources and
2 supply disruptions, including the effects of price changes
3 and supply disruptions on business and commerce and
4 public welfare.

5 (3) Considerations of energy security and
6 preparedness, including the costs of maintaining access to
7 foreign energy supplies.

8 (4) Maintaining state and federal strategic energy
9 reserves.

10 25138. (a) Beginning with the biennial report
11 transmitted in 1981, the Governor shall review each such
12 report and shall, within 90 days after its receipt, report
13 further to the Legislature his or her agreement or
14 disagreement with the policy recommendations
15 contained therein. The Governor's report to the
16 Legislature shall cover at least the items required to be
17 included in the department's biennial report by Section
18 25136 and may cover such additional items as the
19 Governor may deem necessary or appropriate. If the
20 Governor disagrees with one or more recommendations
21 in the department's biennial report, the Governor shall,
22 in each instance, indicate the reasons for the
23 disagreement and shall specify the alternate policy which
24 the Governor determines to be appropriate.

25 (b) The Governor's report to the Legislature pursuant
26 to this section shall be deemed to be the Governor's
27 official statement of energy policy.

28 25139. (a) Commencing November 1, 1985, and
29 every two years thereafter, the department shall publish
30 and submit to the Governor and the Legislature a
31 comprehensive report describing emerging trends
32 relating to the use, availability, and pricing of petroleum
33 and petroleum products, natural gas, coal, synthetic and
34 other fuels, and investments in production and refining,
35 and potential alternate fuel technologies. The
36 department shall include in its report long range forecasts
37 of the anticipated supply and price of these fuels, and the
38 demand for these fuels in the residential, commercial,
39 and industrial sectors, and for electrical generation and
40 transportation. The report shall assess the risk of fuel

1 supply disruption, price shocks, or other events, and shall
2 assess the consequences of those events on the availability
3 and price of fuels and the effects on the state's economy.
4 The report shall also recommend needed changes in the
5 state's energy shortage contingency plans, and include
6 specific recommendations for legislative or
7 administrative actions to increase production and
8 productivity, improve the efficiency of fuel use, increase
9 conservation, and any other actions needed to maintain
10 sufficient, secure, and affordable fuel supplies for the
11 state. Nothing in this section expands or diminishes the
12 responsibilities set forth in Section 25056.

13 (b) Not less than 60 days prior to publication of the
14 report required by subdivision (a), the department shall
15 submit a draft copy of the report to the Public Utilities
16 Commission. Not more than 45 days after receiving a copy
17 of the draft report, the Public Utilities Commission shall
18 submit written comments to the department on any
19 analysis, findings, or recommendations which pertain to
20 the Public Utilities Commission's constitutional,
21 statutory, and other responsibilities. Each final report
22 published and submitted to the Legislature and the
23 Governor pursuant to subdivision (a) shall contain a
24 summary of any written comments adopted and
25 submitted to the department by the Public Utilities
26 Commission.

27 25140. (a) The department, in cooperation with the
28 State Air Resources Board, shall prepare a report on the
29 expected availability and prices of fuels which are
30 anticipated to be required for use in low-emission motor
31 vehicles using methanol or other clean-burning fuels and
32 shall thereafter include, in its biennial report prepared
33 under Section 25139, information on the expected
34 availability and prices of those fuels.

35 (b) The report shall include an assessment of the
36 relative cost to users, compared to gasoline, of these fuels.
37 The report shall also recommend to the Legislature any
38 changes needed to ensure that these fuels are used to the
39 greatest extent practicable. That information shall be
40 included in each biennial report.



1 (c) The biennial reports shall include an assessment of
2 the success of the introduction, prices, and availability of
3 these fuels.

4 25141. (a) The report required by Section 25139 shall
5 also include, to the extent funds are available in the
6 existing budget of the department, information relating
7 to methanol, fuel cells, liquid petroleum gas, natural gas,
8 and electricity.

9 (b) The report shall also describe the availability,
10 economic cost, and air quality benefits associated with the
11 use of clean-burning fuels in the stationary source and
12 transportation sectors of California and shall consider the
13 use of new pollution control technologies in conjunction
14 with traditional fuels in comparison with the use of
15 clean-burning fuels. That segment of the report shall be
16 developed in consultation with the Public Utilities
17 Commission, the State Air Resources Board, and the air
18 pollution control districts and air quality management
19 districts.

20 25142. The biennial reports prepared pursuant to
21 Section 25139 shall include a report on the impact and
22 administration of incentives designed to encourage the
23 purchase and use of low-emission vehicles, including, but
24 not limited to, the incentives established under Section
25 6356.5 of the Revenue and Taxation Code.

26 25143. (a) The department, in consultation with the
27 State Air Resources Board and the Public Utilities
28 Commission, may direct fuel producers, suppliers,
29 distributors, and the owners and lessors of retail fueling
30 outlets, that are selling fuels used by low-emission
31 vehicles, to provide the department, on a periodic basis
32 as scheduled by the department, with data and
33 information, not otherwise supplied under Chapter 6
34 (commencing with Section 25175), concerning fuel
35 availability, posted or average wholesale or rack prices,
36 and prices charged for those fuels. The department may
37 request other low-emission vehicle fuel information
38 needed to fulfill its reporting obligations under Sections
39 25140, 25141, and 25142, and subdivision (c). The
40 information shall be provided to the department in the

1 form and to the extent that the department prescribes. To
2 the maximum extent practicable, the department shall
3 use existing reporting forms and procedures to
4 implement this section.

5 (b) The information and data provided to the
6 department pursuant to this section shall be subject to the
7 confidentiality provisions of Section 25182.

8 (c) The biennial report prepared pursuant to Section
9 25139 shall include a report on whether fuels used for
10 low-emission vehicles are being effectively marketed and
11 effectively made available to customers, and shall include
12 recommendations for ensuring the availability of those
13 fuels to customers.

14 25144. (a) (1) By April 1, 1975, and every three
15 months thereafter, each electric utility, gas utility, major
16 natural gas producer, and major marketer of natural gas
17 doing business within this state shall submit the
18 information described in this section to the department
19 for analysis. The information shall be based on actual
20 records or projections and shall include data from the
21 prior quarter and estimates for the period ending one
22 year from the reporting date. The information shall be
23 used by the department in order, among other things,
24 that it may properly assess the nature and extent of any
25 energy shortage, the economic and environmental
26 impacts of any energy shortage, and obtain information
27 in a manner which will enable the state to take actions to
28 meet or mitigate any energy shortage.

29 (2) Any such information which is also required to be
30 reported to other governmental agencies may be
31 submitted to the department in fulfillment of the
32 requirements of this section. The department may
33 require additional information if necessary to carry out
34 this section.

35 (b) Each natural gas producer shall submit
36 information to the department specifying, by month, the
37 amount of gas produced, stored or withdrawn from
38 storage, the available supply, and the amounts of gas
39 supplied to classes of major uses, as designated by the
40 department.



1 (c) Each gas utility shall submit information to the
2 department specifying, by month, the utility's sources
3 and amounts of supply, the amounts of demand and
4 amounts supplied to all major uses, both firm and
5 interruptible, as designated by the department, and
6 amounts of gas stored or withdrawn from storage, and
7 exchanges, imports into the state, and exports from the
8 state of gas supplies.

9 (d) Each electric utility shall submit information to
10 the department specifying, by month, the utility's
11 amount of electricity generated and generating capacity
12 by type of generation, amounts of exchanges and
13 transfers of electricity, amounts of oil and gas required to
14 generate electricity, indicating the source of supply,
15 including inventory on hand, and the amounts of
16 electricity supplied for all major uses, as designated by the
17 department.

18 25145. Information to be presented to the
19 department pursuant to Section 25144 that is a marketing
20 or trade secret shall be aggregated by the department to
21 the extent necessary to ensure confidentiality. Upon a
22 petition by any person, the department shall, by a written
23 decision setting forth its reasons, make a determination
24 whether specific information submitted to it is a
25 marketing or trade secret and should not be publicly
26 disclosed. The department shall not consider information
27 to be a marketing or trade secret if it has been knowingly
28 revealed by the petitioner or publicly available to any
29 competitor of the petitioner. In making its
30 determination, the department may consult with the
31 Attorney General.

32 25146. The department shall summarize the
33 information submitted to it pursuant to Section 25144 and
34 shall publish the summaries within 30 days of the
35 submittal of the information. Any person may submit
36 comments in writing regarding the accuracy or
37 sufficiency of the information, and the department may
38 hold hearings to determine the accuracy or sufficiency of
39 the information submitted. The summaries prepared by

1 the department shall be part of its report to the Governor
2 and to the Legislature.

3 25147. Nothing in this division shall authorize the
4 department or the board, in the performance of their
5 analytical, planning, siting, or certification
6 responsibilities, to mandate a specified supply plan for
7 any utility.

8 25148. The department, in consultation with the State
9 Air Resources Board, the California Transportation
10 Commission, the Office of Planning and Research, air
11 pollution control districts and air quality management
12 districts, affected industries, and the public, shall identify
13 and evaluate energy programs which might be used to
14 achieve the forecast of energy use under a least
15 environmental and economic cost scenario, as described
16 in subdivision (c) of Section 25137. The programs shall
17 include, but not be limited to, all of the following:

18 (a) Conservation programs.

19 (b) Economic and regulatory incentives, including
20 congestion charges.

21 (c) Accelerated introduction of nonpetroleum based
22 vehicles and fueling facilities, and accelerated sale of
23 nonpetroleum based fuels.

24 (d) Transportation control measures, including
25 energy efficient integrated transportation and land use
26 planning.

27 25149. Based on the information and evaluation
28 developed in Sections 25137 and 25148, and consultation
29 with affected public and private entities, the department
30 shall report the results of the evaluation to the
31 Legislature, including long-range and interim targets for
32 transportation energy use reduction and fuel diversity,
33 which shall be designed to achieve the least
34 environmental and economic cost forecast required
35 pursuant to subdivision (c) of Section 25137.

36 25150. (a) The department, in collaboration with the
37 Department of Transportation, the Public Utilities
38 Commission, and the State Air Resources Board, shall
39 develop a consumer recharging and refueling
40 infrastructure master plan to support development,

1 production, and operation of alternative fuel vehicles.
2 Development of the master plan shall be accomplished in
3 collaboration with air pollution control districts and air
4 quality management districts, regional agencies,
5 counties, cities, public utilities, the private business
6 sector, and alternative fuel vehicle associations and
7 research organizations. The plan shall include, but not be
8 limited to, all of the following:

9 (1) Ensuring adequate supplies of clean fuels,
10 including utility capacities and load management
11 options.

12 (2) Identifying potential convenient public and
13 private recharging or refueling facilities.

14 (3) Developing standard specifications, including
15 design and testing procedures, for chargers, electrical
16 components, and refueling outlets.

17 (4) Providing customer service, education, and
18 training.

19 (5) Exploring development of public quick recharging
20 and refueling networks.

21 (6) Recommending electrical code, building code, and
22 other regulatory revisions.

23 (7) Initiating strategies to require automobile
24 manufacturers to take responsibility for all support
25 related to original equipment manufactured vehicles,
26 including service, sales, warranties, spare parts, and
27 distribution.

28 (8) Considering criteria, as determined by the
29 Legislature and the Public Utilities Commission,
30 governing ratepayer responsibility for utility
31 infrastructure development.

32 (b) In the development of the master plan,
33 consideration shall be given to the types of clean fuels that
34 are likely to be in use in the foreseeable future in
35 compliance with existing state and federal air quality laws
36 and regulations governing vehicle emission standards.

37 (c) For purposes of this section, clean fuels are fuels
38 designated by the State Air Resources Board for use in
39 low, ultralow, or zero-emission vehicles and include, but
40 are not limited to, electricity, ethanol, hydrogen,

1 liquefied petroleum gas, methanol, natural gas, and
2 reformulated gasoline.

3 (d) It is the intent of the Legislature that the activities
4 required pursuant to this section shall be funded from
5 existing resources of the department.

6
7 CHAPTER 6. PETROLEUM SUPPLY AND PRICING
8

9 25175. This chapter shall be known, and may be cited,
10 as the Petroleum Industry Information Reporting Act of
11 1980.

12 25176. (a) The Legislature hereby finds and declares
13 that the petroleum industry is an essential element of the
14 California economy and is therefore of vital importance
15 to the health and welfare of all Californians.

16 (b) The Legislature further finds and declares that a
17 complete and thorough understanding of the operations
18 of the petroleum industry is required by state
19 government at all times to enable it to respond to possible
20 shortages, oversupplies, or other disruptions.

21 (c) The Legislature further finds and declares that
22 information and data concerning all aspects of the
23 petroleum industry, including, but not limited to, crude
24 oil production, supplies, refining, product output, prices,
25 distribution, demand, and investment choices and
26 decisions are essential for the state to develop and
27 administer energy policies which are in the interest of the
28 state's economy and the public's well-being.

29 25177. (a) Beginning October 1980, and each month
30 thereafter, each refiner and major marketer shall submit
31 information to the department in such form and extent
32 as the department prescribes pursuant to this section.
33 The information shall be submitted within 30 days after
34 the end of each monthly reporting period and shall
35 include the following:

36 (1) Refiners shall report, for each of their refineries,
37 feedstock inputs, origin of petroleum receipts, refinery
38 outputs, refinery stocks, and finished product supply and
39 distribution.

1 (2) Major marketers shall report on petroleum and
2 petroleum product receipts, inventories, and
3 distributions.

4 (b) Beginning October 1980, and annually thereafter,
5 each major oil producer, refiner, marketer, oil
6 transporter, and oil storer shall submit information to the
7 department in such form and extent as the department
8 prescribes pursuant to this section. The information shall
9 be submitted within 30 days after the end of each
10 reporting period, and shall include the following:

11 (1) Major oil transporters shall report on petroleum by
12 reporting the capacities of each major transportation
13 system, the amount transported by each system, and
14 inventories thereof. The department may prescribe rules
15 and regulations which exclude pipeline and
16 transportation modes operated entirely on property
17 owned by major oil transporters from the reporting
18 requirements of this section where the data or
19 information is not needed to fulfill the purposes of this
20 chapter. The provision of the information shall not be
21 construed to increase or decrease any authority the
22 Public Utilities Commission may otherwise have.

23 (2) Major oil storers shall report on storage capacity,
24 inventories, receipts and distributions, and methods of
25 transportation of receipts and distributions.

26 (3) Major oil producers shall, with respect to thermally
27 enhanced oil recovery operations, report annually by
28 designated oil field, the monthly use, as fuel, of crude oil
29 and natural gas.

30 (4) Refiners shall report on facility capacity, and
31 utilization and method of transportation of refinery
32 receipts and distributions.

33 (5) Major oil marketers shall report on facility capacity
34 and methods of transportation of receipts and
35 distributions.

36 (c) Each person required to report pursuant to
37 subdivision (a) shall submit a projection each month of
38 the information to be submitted pursuant to subdivision
39 (a) for the quarter following the month in which the
40 information is submitted to the department.

1 (d) In addition to the data required under subdivision
2 (a), each integrated oil refiner (produces, refines,
3 transports, and markets in interstate commerce) who
4 supplies more than 500 branded retail outlets in
5 California shall submit to the department an annual
6 industry forecast for Petroleum Administration for
7 Defense, District V (covering Arizona, Nevada,
8 Washington, Oregon, California, Alaska, and Hawaii).
9 The forecast shall include the information to be
10 submitted under subdivision (a), and shall be submitted
11 by March 15 of each year. The department may require
12 California-specific forecasts. However, those forecasts
13 shall be required only if the department finds them
14 necessary to carry out its responsibilities.

15 (e) The department may by order or regulation
16 modify the reporting period as to any individual item of
17 information setting forth in the order or regulation its
18 reason for so doing.

19 (f) The department may request additional
20 information as necessary to perform its responsibilities
21 under this chapter.

22 (g) Any person required to submit information or data
23 under this chapter may, in lieu thereof, submit a report
24 made to any other governmental agency, if both of the
25 following conditions are met:

26 (1) The alternate report or reports contain all of the
27 information or data required by specific request under
28 this chapter.

29 (2) The person clearly identifies the specific request to
30 which the alternate report is responsive.

31 (h) Beginning January 1, 1985, and each month
32 thereafter, each refiner shall submit to the department,
33 within 30 days after the end of each monthly reporting
34 period, all of the following information in such form and
35 extent as the department prescribes:

36 (1) Monthly California weighted average prices and
37 sales volumes of finished leaded regular, unleaded
38 regular, and premium motor gasoline sold through
39 company-operated retail outlets, to other end-users, and
40 to wholesale customers.

1 (2) Monthly California weighted average prices and
2 sales volumes for residential sales, commercial and
3 institutional sales, industrial sales, sales through
4 company-operated retail outlets, sales to other end-users,
5 and wholesale sales of No. 2 diesel fuel and No. 2 fuel oil.

6 (3) Monthly California weighted average prices and
7 sales volumes for retail sales and wholesale sales of No. 1
8 distillate, kerosene, finished aviation gasoline,
9 kerosene-type jet fuel, No. 4 fuel oil, residual fuel oil with
10 1 percent or less sulfur, residual fuel oil with greater than
11 1 percent sulfur and consumer grade propane.

12 25178. (a) The department shall, utilizing its own
13 staff and other support staff having expertise and
14 experience in, or with, the petroleum industry, gather,
15 analyze, and interpret the information submitted to it
16 pursuant to Section 25177 and other information relating
17 to the supply and price of petroleum products, with
18 particular emphasis on motor vehicle fuels, including, but
19 not limited to, all of the following:

20 (1) The nature, cause, and extent of any petroleum or
21 petroleum products shortage or condition affecting
22 supply.

23 (2) The economic and environmental impacts of any
24 petroleum and petroleum product shortage or condition
25 affecting supply.

26 (3) Petroleum or petroleum product demand and
27 supply forecasting methodologies utilized by the
28 petroleum industry in California.

29 (4) The prices, with particular emphasis on retail
30 motor fuel prices, and any significant changes in prices
31 charged by the petroleum industry for petroleum or
32 petroleum products sold in California and the reasons for
33 those changes.

34 (5) The profits, both before and after taxes, of the
35 industry as a whole and of major firms within it, including
36 a comparison with other major industry groups and major
37 firms within them as to profits, return on equity and
38 capital, and price-earnings ratio.

39 (6) The emerging trends relating to supply, demand,
40 and conservation of petroleum and petroleum products.

1 (7) The nature and extent of efforts of the petroleum
2 industry to expand refinery capacity and to make
3 acquisitions of additional supplies of petroleum and
4 petroleum products, including activities relative to the
5 exploration, development, and extraction of resources
6 within the state.

7 (8) The development of a petroleum and petroleum
8 products information system in a manner which will
9 enable the state to take action to meet and mitigate any
10 petroleum or petroleum products shortage or condition
11 affecting supply.

12 (b) The department shall analyze the impacts of state
13 and federal policies and regulations upon the supply and
14 pricing of petroleum products.

15 25179. The department shall obtain and analyze
16 monthly production reports prepared by the State Oil
17 and Gas Supervisor pursuant to Section 3227.

18 25180. (a) Within 70 days from the end of each
19 preceding quarter of each calendar year, the department
20 shall publish and submit to the Governor and the
21 Legislature a summary, an analysis, and an interpretation
22 of the information submitted to it pursuant to Section
23 25177 and information reviewed pursuant to Section
24 25179. That report shall be separate from the report
25 submitted pursuant to Section 25146. Any person may
26 submit comments in writing regarding the accuracy or
27 sufficiency of the information submitted.

28 (b) The department shall prepare a biennial
29 assessment of the information provided pursuant to this
30 chapter and shall include its assessment in the biennial
31 fuels report prepared pursuant to Section 25139.

32 (c) The department may use reasonable means
33 necessary and available to it to seek and obtain any facts,
34 figures, and other information from any source for the
35 purpose of preparing and providing reports to the
36 Governor and the Legislature. The department shall
37 specifically include in the reports its analysis of any
38 unsuccessful attempts in obtaining information from
39 potential sources, including the lack of cooperation or
40 refusal to provide information.



1 (d) Whenever the department fails to provide any
2 report required pursuant to this section within the
3 specified time, it shall provide to all members of the
4 Legislature, within five days of the specified time, a
5 detailed written explanation of the cause of any delay.

6 25181. (a) For the purposes of this section, the term
7 “person” shall mean, in addition to the definition
8 contained in Section 25035, any responsible corporate
9 officer.

10 (b) The department shall notify those persons who
11 have failed to timely provide the information specified in
12 Section 25177. If, within five days of being notified of the
13 failure to provide the specified information, the person
14 fails to supply the specified information, the person shall
15 be subject to a civil penalty of not less than five hundred
16 dollars (\$500) nor more than two thousand dollars
17 (\$2,000) per day for each day the submission of
18 information is refused or delayed, unless the person has
19 timely filed objections with the department regarding
20 the information and the department has not yet held a
21 hearing on the matter, or the department has held a
22 hearing and the person has properly submitted the issue
23 to a court of competent jurisdiction for review.

24 (c) Any person who willfully makes any false
25 statement, representation, or certification in any record,
26 report, plan, or other document filed with the
27 department shall be subject to a civil penalty not to
28 exceed two thousand dollars (\$2,000).

29 25182. (a) Any person who is required to present
30 information to the department pursuant to Section 25177
31 may request that specific information be held in
32 confidence.

33 (b) Information presented to the department
34 pursuant to Section 25177 shall be held in confidence by
35 the department or aggregated to the extent necessary to
36 ensure confidentiality if public disclosure of the specific
37 information or data would result in unfair competitive
38 disadvantage to the person supplying the information.

39 (c) (1) Whenever the department receives a request
40 to publicly disclose unaggregated information, or

1 otherwise proposes to publicly disclose information
2 submitted pursuant to Section 25177, notice of the request
3 or proposal shall be provided to the person submitting the
4 information. The notice shall indicate the form in which
5 the information is to be released. Upon receipt of notice,
6 the person submitting the information shall have 10
7 working days in which to respond to the notice to justify
8 the claim of confidentiality on each specific item of
9 information covered by the notice on the basis that public
10 disclosure of the specific information would result in
11 unfair competitive disadvantage to the person supplying
12 the information.

13 (2) The department shall consider the respondent's
14 submittal in determining whether to publicly disclose the
15 information submitted to it to which a claim of
16 confidentiality is made. The department shall issue a
17 written decision which sets forth its reasons for making
18 the determination whether each item of information for
19 which a claim of confidentiality is made shall remain
20 confidential or shall be publicly disclosed.

21 (d) The department shall not make public disclosure
22 of information submitted to it pursuant to Section 25177
23 within 10 working days from the date that the
24 department has issued its written decision required in this
25 section.

26 (e) No information submitted to the department
27 pursuant to Section 25177 shall be deemed confidential if
28 the person submitting the information or data has made
29 it public.

30 (f) With respect to information provided pursuant to
31 subdivision (h) of Section 25177, neither the department,
32 nor any employee of the department, may do any of the
33 following:

34 (1) Use the information furnished under subdivision
35 (h) of Section 25177 for any purpose other than the
36 statistical purposes for which it is supplied.

37 (2) Make any publication whereby the information
38 furnished by any particular establishment or individual
39 under subdivision (h) of Section 25177 can be identified.



1 (3) Permit anyone other than the director and
2 employees of the department to examine the individual
3 reports provided under subdivision (h) of Section 25177.

4 (g) Notwithstanding any other provision of law, the
5 department may disclose confidential information
6 received pursuant to subdivision (a) of Section 25143 or
7 Section 25177 to the State Air Resources Board if the state
8 board agrees to keep the information confidential. With
9 respect to the information it receives, the State Air
10 Resources Board shall be subject to all pertinent
11 provisions of this section.

12 25183. Any confidential information that is pertinent
13 to the responsibilities of the department specified in this
14 division which is obtained by another state agency shall
15 be available to the department and shall be treated in a
16 confidential manner.

17
18 CHAPTER 7. ENERGY RESOURCES CONSERVATION
19

20 25200. The department shall conduct an ongoing
21 assessment of the opportunities and constraints
22 presented by all forms of energy. The department shall
23 encourage the balanced use of all sources of energy to
24 meet the state's needs and shall seek to avoid possible
25 undesirable consequences of reliance on a single source
26 of energy.

27 25201. (a) The department shall continuously carry
28 out studies, research projects, data collection, and other
29 activities required to assess the nature, extent, and
30 distribution of energy resources to meet the needs of the
31 state, including but not limited to, fossil fuels and solar,
32 nuclear, and geothermal energy resources. The
33 department shall also carry out studies, technical
34 assessments, research projects, and data collection
35 directed to reducing wasteful, inefficient, unnecessary, or
36 uneconomic uses of energy, including, but not limited to,
37 all of the following:

38 (1) Pricing of electricity and other forms of energy.

39 (2) Improved building design and insulation.

1 (3) Restriction of promotional activities designed to
2 increase the use of electrical energy by consumers.

3 (4) Improved appliance efficiency.

4 (5) Advances in power generation and transmission
5 technology.

6 (6) Comparisons in the efficiencies of alternative
7 methods of energy utilization.

8 (b) The department shall survey pursuant to this
9 section all forms of energy on which to base its
10 recommendations to the Governor and Legislature for
11 elimination of waste or increases in efficiency for sources
12 or uses of energy. The department shall transmit to the
13 Governor and the Legislature, as part of the biennial
14 report specified in Section 25136, recommendations for
15 state policy and actions for the orderly development of all
16 potential sources of energy to meet the state's needs,
17 including, but not limited to, fossil fuels and solar, nuclear,
18 and geothermal energy resources, and to reduce wasteful
19 and inefficient uses of energy.

20 25202. Commencing October 1, 1986, and every two
21 years thereafter, the department shall prepare and
22 submit to the Governor and the Legislature a report
23 which identifies emerging trends within the residential,
24 commercial, industrial, agricultural, and transportation
25 sectors of the state's economy related to energy
26 conservation, specifies the level of statewide and service
27 area energy conservation reasonably expected to occur in
28 the forthcoming 5-, 12-, and 20-year periods determined
29 pursuant to subdivision (c) of Section 25130, and indicates
30 the potential for additional achievable energy
31 conservation for the same periods. The report shall also
32 identify improvements or alternatives to existing
33 governmental and private programs and policies which
34 would permit fuller realization of the potential for energy
35 conservation either through direct programmatic actions
36 or facilitation of the market. The report shall recommend
37 legislative and administrative actions, programs, and
38 policies designed to attain reasonably expected to occur
39 and additional achievable, cost-effective, energy
40 conservation. A preliminary report addressing selected

1 program areas shall be adopted on or before October 1,
2 1985.

3 25203. (a) As part of the biennial energy
4 conservation report required by Section 25202, the
5 department shall develop and update an inventory of
6 current and potential cost-effective opportunities in each
7 utility's service territory, to improve efficiencies and to
8 help utilities manage loads in all sectors of natural gas and
9 electricity use. The report shall include estimates of the
10 overall magnitude of these resources, load shapes, and the
11 projected costs associated with delivering the various
12 types of energy savings that are identified in the
13 inventory. The report shall also estimate the amount and
14 incremental cost per unit of potential energy efficiency
15 and load management activities. Where applicable, the
16 inventory shall include data on variations in savings and
17 costs associated with particular measures. The report
18 shall take into consideration environmental benefits as
19 developed in related department and Public Utilities
20 Commission proceedings.

21 (b) The department shall develop and maintain the
22 inventory in consultation with electric and gas utilities,
23 the Public Utilities Commission, academic institutions,
24 and other interested parties.

25 (c) The department shall convene a technical advisory
26 group to develop an analytic framework for the
27 inventory, to discuss the level of detail at which the
28 inventory would operate, and to ensure that the
29 inventory is consistent with other demand-side data
30 bases. Privately owned electric and gas utilities shall
31 provide financial support, gather data, and provide
32 analysis for activities that the technical advisory group
33 recommends. The technical advisory group shall
34 terminate on January 1, 1993.

35 25204. The department shall, after one or more public
36 hearings, do all of the following, to reduce the wasteful,
37 uneconomic, inefficient, or unnecessary consumption of
38 energy:

39 (a) Prescribe, by regulation, lighting, insulation
40 climate control system, and other building design and

1 construction standards which increase the efficiency in
2 the use of energy for new residential and new
3 nonresidential buildings. The standards shall be
4 cost-effective, when taken in their entirety, and when
5 amortized over the economic life of the structure when
6 compared with historic practice. The department shall
7 periodically update the standards and adopt any revision
8 which, in its judgment, it determines to be necessary. Six
9 months from the date that the department certifies an
10 energy conservation manual pursuant to subdivision (c)
11 of Section 25205, no city, county, city and county, or state
12 agency shall issue a permit for any building unless the
13 building satisfies the standards prescribed by the
14 department pursuant to this subdivision or subdivision
15 (b) which are in effect on the date an application for a
16 building permit is filed.

17 (b) Prescribe, by regulation, energy conservation
18 design standards for new residential and new
19 nonresidential buildings. The standards shall be
20 performance standards and shall be promulgated in
21 terms of energy consumption per gross square foot of
22 floorspace, but may also include devices, systems, and
23 techniques required to conserve energy. The standards
24 shall be cost-effective when taken in their entirety, and
25 when amortized over the economic life of the structure
26 when compared with historic practices. The department
27 shall periodically review the standards and adopt any
28 revision which, in its judgment, it determines to be
29 necessary. A building that satisfies the standards
30 prescribed pursuant to this subdivision need not comply
31 with the standards prescribed pursuant to subdivision
32 (a).

33 (c) (1) Prescribe, by regulation, standards for
34 minimum levels of operating efficiency, based on a
35 reasonable use pattern, and may prescribe other
36 cost-effective measures, including incentive programs,
37 fleet averaging, energy consumption labeling not
38 preempted by federal labeling, and consumer education
39 programs, to promote the use of energy efficient
40 appliances whose use, as determined by the department,



1 requires a significant amount of energy on a statewide
2 basis. The minimum levels of operating efficiency shall be
3 based on feasible and attainable efficiencies or feasible
4 improved efficiencies which will reduce the electrical
5 energy consumption growth rate. The standards shall
6 become effective not sooner than one year from the date
7 of adoption or revision. No new appliance manufactured
8 on or after the effective date of the standards may be sold
9 or offered for sale in the state, unless it is certified by the
10 manufacturer thereof to be in compliance with the
11 standards. The standards shall be drawn so that they do
12 not result in any added total costs to the consumer over
13 the designed life of the appliances concerned.

14 (2) No new appliance, except for any plumbing fitting,
15 regulated under paragraph (1), which is manufactured
16 on or after July 1, 1984, may be sold, or offered for sale, in
17 the state, unless the date of the manufacture is
18 permanently displayed in an accessible place on that
19 appliance.

20 (3) During the period of five years after the
21 department has adopted a standard for a particular
22 appliance, under paragraph (1), no increase or decrease
23 in the minimum level of operating efficiency required by
24 the standard for that appliance shall become effective,
25 unless the department adopts other cost-effective
26 measures for that appliance.

27 (4) Neither the department nor any other state
28 agency shall take any action to decrease any standard
29 adopted under this subdivision on or before June 30, 1985,
30 prescribing minimum levels of operating efficiency or
31 other energy conservation measures for any appliance,
32 unless the department finds that such a decrease is of
33 benefit to ratepayers, and that there is significant
34 evidence of changed circumstances. Prior to January 1,
35 1986, the department shall not take any action to increase
36 any standard prescribing minimum levels of operating
37 efficiency for any appliance or adopt any new standard
38 under paragraph (1). Prior to January 1, 1986, any
39 appliance manufacturer doing business in this state shall
40 provide directly, or through an appropriate trade or

1 industry association, information, as specified by the
2 department after consultation with manufacturers doing
3 business in the state and appropriate trade or industry
4 associations on sales of appliances so that the department
5 may study the effects of regulations on those sales. These
6 informational requirements shall remain in effect until
7 the information is received. The trade or industry
8 association may submit sales information in an
9 aggregated form in a manner that allows the department
10 to carry out the purposes of the study. The department
11 shall treat any sales information of an individual
12 manufacturer as confidential and that information shall
13 not be a public record. The department shall not request
14 any information that cannot be reasonably produced in
15 the exercise of due diligence by the manufacturer. At
16 least one year prior to the adoption or amendment of a
17 standard for an appliance, the department shall notify the
18 Legislature of its intent, and the justification therefor, to
19 adopt or amend a standard for the appliance.
20 Notwithstanding paragraph (3) and this paragraph, the
21 department may do any of the following:

22 (A) Increase the minimum level of operating
23 efficiency in an existing standard up to the level of the
24 National Voluntary Consensus Standards 90, adopted by
25 the American Society of Heating, Refrigeration, and Air
26 Conditioning Engineers or, for appliances not covered by
27 that standard, up to the level established in a similar
28 nationwide consensus standard.

29 (B) Change the measure or rating of efficiency of any
30 standard, if the minimum level of operating efficiency
31 remains substantially the same.

32 (C) Adjust the minimum level of operating efficiency
33 in an existing standard in order to reflect changes in test
34 procedures that the standards require manufacturers to
35 use in certifying compliance, if the minimum level of
36 operating efficiency remains substantially the same.

37 (D) Readopt a standard preempted, enjoined, or
38 otherwise found legally defective by an administrative
39 agency or a lower court, if final legal action determines
40 that the standard is valid and if the standard which is



1 readopted is not more stringent than the standard that
2 was found to be defective or preempted.

3 (E) Adopt or amend any existing or new standard at
4 any level of operating efficiency, if the Governor has
5 declared an energy emergency pursuant to Section 8558
6 of the Government Code.

7 (5) Notwithstanding paragraph (4), the department
8 may adopt standards pursuant to department order No.
9 84-0111-1, on or before June 30, 1985.

10 (d) (1) The board shall recommend minimum
11 standards of efficiency for the operation of any new
12 facility at a particular site which are technically and
13 economically feasible. No site and related facility shall be
14 certified pursuant to Chapter 12 (commencing with
15 Section 25400), unless the applicant certifies that
16 standards recommended by the board have been
17 considered, which certification shall include a statement
18 specifying the extent to which conformance with the
19 recommended standards will be achieved.

20 (e) Whenever this section and the provisions of
21 Chapter 11.5 (commencing with Section 19878) of Part 3
22 of Division 13 of the Health and Safety Code are in
23 conflict, the department shall be governed by that
24 Chapter 11.5 to the extent of the conflict.

25 25205. To implement the requirements of
26 subdivisions (a) and (b) of Section 25204, the department
27 shall do all of the following:

28 (a) Develop a public domain computer program
29 which will enable contractors, builders, architects,
30 engineers, and government officials to estimate the
31 energy consumed by residential and nonresidential
32 buildings. The department may charge a fee for the use
33 of the program, which fee shall be based upon the actual
34 cost of the program, including any computer costs.

35 (b) Establish a formal process for certification of
36 compliance options for new products, materials, and
37 calculation methods which provides for adequate
38 technical and public review to ensure accurate,
39 equitable, and timely evaluation of certification
40 applications. Proponents filing applications for new

1 products, materials, and calculation methods shall
2 provide all information needed to evaluate the
3 application that is required by the department. The
4 department shall publish annually the results of its
5 certification decisions and instructions to users and local
6 building officials concerning requirements for showing
7 compliance with the building standards for new products,
8 materials, or calculation methods. The department may
9 charge and collect a reasonable fee from applicants to
10 cover the costs under this subdivision. Any funds received
11 by the department for purposes of this subdivision shall
12 be deposited in the Energy Resources Programs Account
13 and, notwithstanding Section 13340 of the Government
14 Code, are continuously appropriated to the department
15 for the purposes of this subdivision. Any unencumbered
16 portion of funds collected as a fee for an application
17 remaining in the account after completion of the
18 certification process for that application shall be returned
19 to the applicant within a reasonable period of time.

20 (c) Include a prescriptive method of complying with
21 the standards, including design aids such as a manual,
22 sample calculations, and model structural designs.

23 (d) Certify, not later than 180 days from the date of
24 approval of the standards by the State Building Standards
25 Commission, an energy conservation manual for use by
26 designers, builders, and contractors of residential and
27 nonresidential buildings. The manual shall be furnished
28 upon request at a price sufficient to cover the costs of
29 production and shall be distributed at no cost to all
30 affected local agencies. The manual shall contain, but not
31 be limited to, the following:

32 (1) The standards for energy conservation established
33 by the department.

34 (2) Forms, charts, tables, and other data to assist
35 designers and builders in meeting the standards.

36 (3) Design suggestions for meeting or exceeding the
37 standards.

38 (4) Any other information which the department finds
39 will assist persons in conforming to the standards.



1 (5) Instructions for use of the computer program for
2 calculating energy consumption in residential and
3 nonresidential buildings.

4 (6) The prescriptive method for use as an alternative
5 to the computer program.

6 (e) The department shall establish a continuing
7 program of technical assistance to local building
8 departments in the enforcement of subdivisions (a) and
9 (b) of Section 25204 and this section. The program shall
10 include the training of local officials in building
11 technology and enforcement procedures related to
12 energy conservation, and the development of
13 complementary training programs conducted by local
14 governments, educational institutions, and other public
15 or private entities. The technical assistance program shall
16 include the preparation and publication of forms and
17 procedures for local building departments in performing
18 the review of building plans and specifications. The
19 department shall provide, on a contract basis, a review of
20 building plans and specifications submitted by a local
21 building department, and shall adopt a schedule of fees
22 sufficient to repay the cost of those services.

23 (f) (1) Subdivisions (a) and (b) of Section 25204 and
24 this section, and the rules and regulations of the
25 department adopted pursuant thereto, shall be enforced
26 by the building department of every city, county, or city
27 and county.

28 (2) No building permit for any residential or
29 nonresidential building shall be issued by a local building
30 department, unless a review by the building department
31 of the plans for the proposed residential or nonresidential
32 building contains detailed energy system specifications
33 and confirms that the building satisfies the minimum
34 standards established pursuant to subdivision (a) or (b)
35 of Section 25204 and this section applicable to the
36 building.

37 (3) Where there is no local building department, the
38 department shall enforce subdivisions (a) and (b) of
39 Section 25204 and this section.

(4) If a local building department fails to enforce subdivisions (a) and (b) of Section 25204 and this section or any other provision of this chapter or standard adopted pursuant thereto, the department may provide enforcement after furnishing 10 days' written notice to the local building department.

(5) A city, county, or city and county may, by ordinance or resolution, prescribe a schedule of fees sufficient to pay the costs incurred in the enforcement of subdivisions (a) and (b) of Section 25204 and this section. The department may establish a schedule of fees sufficient to pay the costs incurred by that enforcement.

(6) No construction of any state building shall commence until the Department of General Services or the state agency that otherwise has jurisdiction over the property reviews the plans for the proposed building and certifies that the plans satisfy the minimum standards established pursuant to subdivision (a) or (b) of Chapter 2.8 (commencing with Section 15814.30) of Part 10b of Division 3 of Title 2 of the Government Code, Section 25204, and this section which are applicable to the building.

(g) Subdivisions (a) and (b) of Section 25204 and this section shall apply only to new residential and nonresidential buildings on which actual site preparation and construction have not commenced prior to the effective date of rules and regulations adopted pursuant to those sections that are applicable to those buildings. Nothing in those sections shall prohibit either of the following:

(1) The enforcement of state or local energy conservation or energy insulation standards, adopted prior to the effective date of rules and regulations adopted pursuant to subdivisions (a) and (b) of Section 25204 and this section with regard to residential and nonresidential buildings on which actual site preparation and construction have commenced prior to that date.

(2) The enforcement of city or county energy conservation or energy insulation standards, whenever adopted, with regard to residential and nonresidential

1 buildings on which actual site preparation and
2 construction have not commenced prior to the effective
3 date of rules and regulations adopted pursuant to
4 subdivisions (a) and (b) of Section 25204 and this section,
5 if the city or county files the basis of its determination that
6 the standards are cost effective with the department and
7 the department finds that the standards will require the
8 diminution of energy consumption levels permitted by
9 the rules and regulations adopted pursuant to those
10 sections. If, after two or more years from the date of the
11 filing with the department of the determination that
12 those standards are cost effective, there has been a
13 substantial change in the factual circumstances affecting
14 the determination, upon application by any interested
15 party, the city or county shall update and file a new basis
16 of its determination that the standards are cost effective.
17 The determination that the standards are cost effective
18 shall be adopted by the governing body of the city or
19 county at a public meeting. If, at the meeting on the
20 matter, the governing body determines that the
21 standards are no longer cost effective, the standards shall,
22 as of that date, be unenforceable and no building permit
23 or other entitlement shall be denied based on the
24 noncompliance with the standards.

25 (h) The department may exempt from this section and
26 from any regulations adopted pursuant thereto any
27 proposed building for which compliance would be
28 impossible without substantial delays and increases in
29 cost of construction, if the department finds that
30 substantial funds have been expended in good faith on
31 planning, designing, architecture or engineering prior to
32 the date of adoption of the regulations.

33 (i) If a dispute arises between an applicant for a
34 building permit, or the state pursuant to paragraph (5) of
35 subdivision (f), and the building department regarding
36 interpretation of Section 25204 or the regulations adopted
37 pursuant thereto, either party may submit the dispute to
38 the department for resolution. The department's
39 determination of the matter shall be binding on the
40 parties.

1 (j) Nothing in Section 25033, 25039, or 25204, or in this
2 section prevents enforcement of any regulation adopted
3 pursuant to this chapter, or Chapter 11.5 (commencing
4 with Section 19878) of Part 3 of Division 13 of the Health
5 and Safety Code, as they existed prior to September 16,
6 1977.

7 25206. Any standard adopted by the department
8 pursuant to Sections 25204 and 25205, which is a building
9 standard as defined in Section 25377, shall be submitted
10 to the State Building Standards Commission for approval
11 pursuant to, and is governed by, the State Building
12 Standards Law (Part 2.5 (commencing with Section
13 18901) of Division 13 of the Health and Safety Code).
14 Building standards adopted by the department and
15 published in the State Building Standards Code shall be
16 enforced as provided in Sections 25204 and 25205.

17 25207. For purposes of subdivision (e) of Section
18 25205, the department shall contract with California
19 building officials to establish two regional training centers
20 to provide continuing education for local building
21 officials and enforcement personnel as follows:

22 (a) One site shall be located in northern California and
23 one site shall be located in southern California to serve
24 the needs of the respective regions.

25 (b) The centers shall provide training on a monthly
26 basis to ensure a uniform understanding and
27 implementation of the energy efficient building
28 standards. Existing resources shall be used as much as
29 possible by utilizing members of the building official
30 community in training activities.

31 (c) (1) The centers shall provide similar training
32 sessions, in the form of workshops given in designated
33 rural areas, to ensure that adequate training is available
34 throughout the state.

35 (2) A minimum of two workshops in northern
36 California and two workshops in southern California shall
37 be offered each year.

38 (3) The sites shall be selected to ensure the greatest
39 number of participants will be served in areas of greatest
40 need to decrease the financial burden on small rural or

1 isolated local government agencies that would not be able
2 to travel to the regional training centers for instruction.

3 25208. The standards for nonresidential buildings
4 prescribed pursuant to subdivisions (a) and (b) of Section
5 25204 shall provide at least one option which uses passive
6 or semipassive thermal systems, as defined in Section
7 25500, for meeting the prescribed energy use
8 requirements. These systems may include, but are not
9 limited to, the following construction techniques:

10 (a) Use of skylights or other daylighting techniques.

11 (b) Use of openable windows or other means of using
12 outside air for space conditioning.

13 (c) Use of building orientation, to complement other
14 passive or semipassive thermal systems.

15 (d) Use of thermal mass, of structural or nonstructural
16 type, for storage of heat or cold, including, but not limited
17 to, roof ponds and water walls.

18 25209. (a) As used in this section, "lighting device"
19 includes, but is not limited to, a lamp, luminaire, light
20 fixture, lighting control, ballast, or any component of
21 those devices.

22 (b) (1) The department shall consider both new and
23 replacement, and both interior and exterior, lighting
24 devices as lighting which is subject to subdivision (a) of
25 Section 25204.

26 (2) The department shall include both indoor and
27 outdoor lighting devices as appliances to be considered in
28 prescribing standards pursuant to paragraph (1) of
29 subdivision (c) of Section 25204.

30 (3) The Legislature hereby finds and declares that
31 paragraphs (1) and (2) are declarative of existing law.

32 (c) (1) The department shall establish an advisory
33 group to provide technical advice, and, after public
34 review, shall prepare and submit a report to the
35 Legislature on or before January 1, 1996, identifying
36 which lighting devices, whether indoor or outdoor, and
37 residential or commercial, may be appropriate either for
38 the department to include in lighting efficiency
39 regulations and other state energy or lighting efficiency
40 programs or for federal government consideration in

1 national lighting efficiency standards. The advisory group
2 shall include, but not be limited to, representatives of the
3 Illuminating Engineering Society of North America, the
4 International Association of Lighting Designers, the
5 National Electrical Manufacturers Association, the
6 Association of Professional Energy Managers, the
7 Lighting Research Institute, the Electric Power Research
8 Institute, the Natural Resources Defense Council, the
9 Department of Energy, the Environmental Protection
10 Agency, and California's electric utilities. No state funds
11 shall be used to support the advisory group.

12 (2) The department's report and recommendations
13 shall identify proposed lighting efficiency regulations,
14 standards, or programs that are technologically feasible
15 and cost-effective and that would result in a significant
16 level of energy savings. The report shall emphasize, but
17 not be limited to, residential lighting efficiency, and shall
18 consider requiring manufacturers of light fixtures to
19 produce fixtures which are physically compatible with
20 fluorescent lamps. The report shall also consider
21 educational and labeling programs that could help
22 increase the use of efficient lighting devices.

23 (d) (1) To the extent not preempted by federal law,
24 on or before February 1, 1996, the department shall
25 initiate a formal rulemaking proceeding, including public
26 review and hearings, to consider efficiency standards for
27 lighting devices as recommended in the report required
28 by subdivision (c). Any regulations issued pursuant to this
29 paragraph shall be subject to the requirements of
30 paragraph (1) of subdivision (c) of Section 25204.

31 (2) The department may also actively participate in
32 proceedings of the Department of Energy concerning
33 the development and adoption of national lighting
34 efficiency standards as recommended in the report.

35 25210. When assessing new building standards for
36 residential and nonresidential buildings relating to the
37 conservation of energy, the department shall include in
38 its deliberations the impact that those standards would
39 have on indoor air pollution problems.



1 25211. (a) On or before July 1, 1996, the department
2 shall develop, adopt, and publish an informational
3 booklet to educate and inform homeowners, rental
4 property owners, renters, sellers, brokers, and the
5 general public about the statewide home energy rating
6 program adopted pursuant to Section 25726.

7 (b) In the development of the booklet, the
8 department shall consult with representatives of the
9 Department of Real Estate, the Department of Housing
10 and Community Development, the Public Utilities
11 Commission, investor-owned and municipal utilities,
12 cities and counties, real estate licensees, home builders,
13 mortgage lenders, home appraisers and inspectors, home
14 energy rating organizations, contractors who provide
15 home energy services, consumer groups, and
16 environmental groups.

17 (c) The department shall charge a fee for the
18 informational booklet to recover its costs under
19 subdivision (a).

20 25212. The department shall submit to the Public
21 Utilities Commission and to any publicly owned electric
22 utility, recommendations designed to reduce wasteful,
23 unnecessary, or uneconomic energy consumption
24 resulting from practices including, but not limited to,
25 differential rate structures, cost-of-service allocations, the
26 disallowance of a business expense of advertising or
27 promotional activities which encourage the use of
28 electrical power, peakload pricing, and other pricing
29 measures. The Public Utilities Commission or publicly
30 owned electric utility shall review and consider those
31 recommendations and shall, within six months from the
32 date it receives them, as prescribed by this section, report
33 to the Governor and the Legislature its actions and
34 reasons therefor with respect to those recommendations.

35 25213. (a) The department shall, by July 1, 1978,
36 adopt standards by regulation for a program of electrical
37 load management for each utility service area. In
38 adopting the standards, the department shall consider,
39 but need not be limited to, the following load
40 management techniques:

1 (1) Adjustments in rate structure to encourage use of
2 electrical energy at off-peak hours or to encourage
3 control of daily electrical load. Compliance with such
4 changes in rate structure shall be subject to the approval
5 of the Public Utilities Commission in a proceeding to
6 change rates or service.

7 (2) End use storage systems which store energy during
8 off-peak periods for use during peak periods.

9 (3) Mechanical and automatic devices and systems for
10 the control of daily and seasonal peakloads.

11 (b) The standards shall be cost effective when
12 compared with the costs for new electrical capacity, and
13 the department shall find them to be technologically
14 feasible. Any expense or any capital investment required
15 of a utility by the standards shall be an allowable expense
16 or an allowable item in the utility rate base and shall be
17 treated by the Public Utilities Commission as such in a
18 rate proceeding.

19 (c) The department may determine that one or more
20 of those techniques are infeasible and may delay their
21 adoption. If the department determines that any
22 techniques are infeasible to implement, it shall make a
23 finding in each instance stating the grounds upon which
24 the determination was made and the actions it intends to
25 take to remove the impediments to implementation. The
26 department's findings shall be published and forwarded
27 to the Governor and the Legislature.

28 (d) The department may also grant, upon application
29 by a utility, an exemption from the standards or a delay
30 in implementation. The grant of an exemption or delay
31 shall be accompanied by a statement of findings by the
32 department indicating the grounds for the exemption or
33 delay. Exemption or delay shall be granted only upon a
34 showing of extreme hardship, technological infeasibility,
35 lack of cost effectiveness, or reduced system reliability
36 and efficiency.

37 (e) This section does not apply to proposed sites and
38 related facilities for which a notice of intent or an
39 application requesting certification has been filed with



1 the department prior to the effective date of the
2 standards.

3 25214. The department shall cooperate with the
4 Office of Planning and Research, the Resources Agency,
5 and other interested parties in developing procedures to
6 ensure that mitigation measures to minimize wasteful,
7 inefficient, and unnecessary consumption of energy are
8 included in all environmental impact reports required on
9 local projects as specified in Section 21151.

10 25215. A city, county, or city and county may by
11 ordinance or resolution prescribe a schedule of fees
12 sufficient to pay the costs incurred in the enforcement of
13 standards adopted pursuant to this chapter.

14
15 CHAPTER 8. ENERGY CONSERVATION ASSISTANCE

16
17 25250. This chapter shall be known, and may be cited,
18 as the Energy Conservation Assistance Act of 1979.

19 25251. The Legislature hereby finds and declares all
20 of the following:

21 (a) Energy costs are frequently the second largest
22 discretionary expense in a local government's budget.
23 According to the department, most public institutions
24 could reduce their energy costs by 20 to 30 percent.

25 (b) A variety of energy conservation measures are
26 available to local governments. These measures are
27 highly cost-effective, often providing a payback on the
28 initial investment in three years or less.

29 (c) Many local governments lack energy management
30 expertise and are often unaware of their high energy costs
31 or the opportunities to reduce those costs.

32 (d) Local governments that desire to reduce their
33 energy costs through energy conservation and efficiency
34 measures often lack available funding.

35 (e) Since 1980, the Energy Conservation Assistance
36 Account has provided \$43.7 million in loans, through a
37 revolving loan account, to 323 schools, hospitals, and local
38 governments. The energy conservation projects funded
39 by the account save approximately \$20 million annually
40 in energy costs.

1 (f) Local governments and public institutions need
2 assistance in all aspects of energy efficiency
3 improvements, including project identification, project
4 development and implementation, operations and
5 maintenance, and troubleshooting.

6 25252. (a) It is the intent of the Legislature that the
7 department shall administer the State Energy
8 Conservation Assistance Account to provide grants and
9 loans to local governments and public institutions to
10 maximize energy use savings, including, but not limited
11 to, technical assistance, demonstrations, and
12 identification and implementation of cost-effective
13 energy efficiency measures and programs.

14 (b) It is further the intent of the Legislature that the
15 department seek the assistance of utility companies in
16 providing energy audits for local governments and public
17 institutions and in publicizing the availability of State
18 Energy Conservation Assistance Account funds to
19 qualified entities.

20 25253. As used in this chapter:

21 (a) “Allocation” means a loan of funds by the
22 department pursuant to the procedures specified in this
23 chapter.

24 (b) “Building” means any occupied structure which
25 includes a heating or cooling system, or both. Additions
26 to an original building shall be considered part of that
27 building rather than a separate building.

28 (c) “Eligible institution” means a school, hospital,
29 public care institution, or a unit of local government.

30 (d) “Energy audit” means a determination of the
31 energy consumption characteristics of a building or
32 facility which does all of the following:

33 (1) Identifies the type, size, and energy use level of
34 such building or facility and the major energy using
35 systems of such building or facility.

36 (2) Determines appropriate energy conservation
37 maintenance and operating procedures.

38 (3) Indicates the need, if any, for the acquisition and
39 installation of energy conservation measures.

1 (e) “Energy conservation maintenance and operating
2 procedure” means a modification or modifications in the
3 maintenance and operations of a building or facility, and
4 any installations in the building or facility, based on the
5 use time schedule of the building or facility, that are
6 designed to reduce energy consumption in the building
7 or facility and which require no significant expenditure
8 of funds.

9 (f) “Energy conservation measure” means an
10 installation or modification of an installation in a building
11 or facility which is primarily intended to reduce energy
12 consumption or allow the use of a more desirable energy
13 source.

14 (g) “Energy conservation project” means an
15 undertaking to acquire and to install one or more energy
16 conservation measures in a building or facility, and
17 technical assistance in connection with any such
18 undertaking.

19 (h) “Facility” means any major energy using system of
20 an eligible institution whether or not housed in a building.

21 (i) “Hospital” means a public or nonprofit institution
22 which is:

23 (1) A general hospital, tuberculosis hospital, or any
24 other type of hospital, other than a hospital furnishing
25 primarily domiciliary care; and

26 (2) Duly authorized to provide hospital services under
27 the laws of this state.

28 (j) “Hospital building” means a building housing a
29 hospital and related operations, including laboratories,
30 laundries, outpatient departments, nurses’ home and
31 training activities, and central service operations in
32 connection with a hospital, and also includes a building
33 housing education or training activities for health
34 professions personnel operated as an integral part of a
35 hospital.

36 (k) “Local government building” means a building
37 which is owned and primarily occupied by offices or
38 agencies of a unit of local government or by a public care
39 institution and shall not include any building intended for

1 seasonal use or any building used primarily by a school or
2 hospital.

3 (l) “Project” means a purpose for which an allocation
4 may be requested and made under this chapter. Those
5 purposes shall include energy audits, energy
6 conservation and operating procedures, energy
7 conservation measures, energy conservation projects,
8 and technical assistance programs.

9 (m) “Public care institution” means a public or
10 nonprofit institution which owns:

11 (1) A long-term care institution.

12 (2) A rehabilitation institution.

13 (3) An institution for the provision of public health
14 services, including related publicly owned services such
15 as laboratories, clinics, and administrative offices
16 operated in connection with such an institution.

17 (4) A residential child care center.

18 (n) “Public or nonprofit institution” means an
19 institution owned and operated by:

20 (1) The state, a political subdivision of the state, or an
21 agency or instrumentality of either.

22 (2) An organization exempt from income tax under
23 Section 501(c)(3) of the Internal Revenue Code of 1954.

24 (3) In the case of public care institutions, an
25 organization also exempt from income tax under Section
26 501(c)(4) of the Internal Revenue Code of 1954.

27 (o) “School” means a public or nonprofit institution,
28 including a local educational agency, which:

29 (1) Provides, and is legally authorized to provide,
30 elementary education or secondary education, or both,
31 on a day or residential basis.

32 (2) Provides, and is legally authorized to provide, a
33 program of education beyond secondary education, on a
34 day or residential basis and:

35 (A) Admits as students only persons having a
36 certificate of graduation from a school providing
37 secondary education, or the recognized equivalent of
38 such certificate.

39 (B) Is accredited by a nationally recognized
40 accrediting agency or association.

(C) Provides an education program for which it awards a bachelor's degree or higher degree or provides not less than a two-year program which is acceptable for full credit toward such a degree at any institution which meets the requirements of paragraphs (A) and (B) and which provides such a program.

(3) Provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of (2).

(p) "School building" means a building housing classrooms, laboratories, dormitories, athletic facilities, or related facilities operated in connection with a school.

(q) "Technical assistance costs" means costs incurred for the use of existing personnel or the temporary employment of other qualified personnel, or both those types of personnel, necessary for the provision of technical assistance.

(r) "Technical assistance program" means assistance to schools, hospitals, local government, and public care institutions for both of the following purposes:

(1) Conducting specialized studies identifying and specifying energy savings and related cost savings that are likely to be realized as a result of either of the following:

(A) Modification of maintenance and operating procedures in a building or facility, in addition to those modifications implemented after the preliminary energy audit.

(B) Acquisition and installation of one or more specified energy conservation measures in the building or facility, or as a result of both.

(2) Planning of specific remodeling, renovation, repair, replacement, or insulation projects related to the installation of energy conservation measures in the building or facility.

(s) "Unit of local government" means a unit of general purpose government below the state or a special district.

25254. (a) Any eligible institution may submit an application to the department for an allocation for the

1 purpose of financing all or a portion of the costs incurred
2 in implementing a project. The application shall be in
3 such form and contain such information as the
4 department shall prescribe.

5 (b) An application may be for the purpose of financing
6 the eligible institution's share of such costs which are to
7 be jointly funded through a state, local, or federal-local
8 program.

9 25255. The department may make loans pursuant to
10 this chapter to local governments owning, or leasing from
11 entities other than privately owned electrical utilities,
12 street lighting systems for purposes of converting the
13 system from incandescent or mercury vapor lamps to
14 sodium vapor lamps or other lighting system equivalent
15 to a sodium vapor system in energy efficiency. Only such
16 refitting programs which convert to sodium vapor lamps
17 or their equivalent in energy efficiency providing
18 comparable illumination shall be eligible for the loan
19 program, it being the purpose and intent of the program
20 to effect the maximum energy savings rather than to
21 increase the amount of light produced by any street lamp.
22 The department shall provide for loan repayment on the
23 basis of life-cycle cost effectiveness of those conversions
24 in a manner which distinguishes between savings of
25 electricity purchased from a utility and savings realized
26 by local governments which operate electrical systems
27 and thereby furnish electricity for the operation of
28 streetlights.

29 25256. (a) Applications may be approved by the
30 department only in those instances where the eligible
31 institution has furnished information satisfactory to the
32 department that the costs of the project, plus interest on
33 state funds loaned, calculated in accordance with Section
34 25258, will be recovered through savings in the cost of
35 energy to such institution during the repayment period
36 of the allocation.

37 (b) The department shall give priority to applications
38 which, based on anticipated savings in the cost of energy,
39 will most rapidly recover the cost of the allocation.

1 25257. Annually at the conclusion of each fiscal year,
2 but not later than October 31, each eligible institution
3 which has received an allocation pursuant to the
4 provisions of this chapter shall compute the cost of the
5 energy saved as a result of implementing a project funded
6 by such allocation. That cost shall be calculated in a
7 manner prescribed by the department.

8 25258. (a) Each eligible institution to which an
9 allocation has been made under this chapter shall repay
10 the principal amount of the allocation, plus interest, in not
11 more than 22 equal semiannual payments, as determined
12 by the department. The first semiannual payment shall
13 be made on or before December 22 of the fiscal year
14 following the year in which the project is completed.

15 (b) Notwithstanding any other provision of law, the
16 department shall, unless it determines that the purposes
17 of this chapter would be better served by establishing an
18 alternative interest rate schedule, periodically set
19 interest rates on the loans based on surveys of existing
20 financial markets and at rates not lower than the Pooled
21 Money Investment Account.

22 (c) The governing body of each eligible institution
23 shall annually budget an amount at least sufficient to
24 make the semiannual payments required in this section.
25 The amount shall not be raised by the levy of additional
26 taxes but shall instead be obtained by a savings in energy
27 costs.

28 25259. (a) The State Energy Conservation Assistance
29 Account is hereby created in the General Fund.
30 Notwithstanding Section 13340 of the Government Code,
31 the account is continuously appropriated to the
32 department without regard to fiscal year.

33 (b) The money in the account shall consist of all money
34 authorized or required to be deposited in the account by
35 the Legislature and all money received by the
36 department pursuant to Sections 25257 and 25258.

37 (c) The money in the account shall be disbursed by the
38 Controller for the purposes of this chapter as authorized
39 by the department.

1 (d) The department may contract and provide grants
2 for services to be performed for eligible institutions.
3 Services may include, but are not limited to, feasibility
4 analysis, project design, field assistance, and operation
5 and training. The amount expended for those services
6 shall not exceed 10 percent of the annual appropriation
7 from the account.

8 (e) The department may make grants to demonstrate
9 energy efficiency technologies at appropriate locations
10 throughout the state. The amount expended for grants
11 shall not exceed 5 percent of the annual appropriation
12 from the account.

13 (f) The department may charge a fee for the services
14 provided under subdivision (d), provided that the funds
15 used for the payment of those services shall have been
16 made available to the eligible institution as a result of the
17 realization of savings in energy costs. Those payments
18 shall be deposited in the account. If anticipated savings do
19 not result from the project, the repayment of fees shall be
20 forgiven.

21 25260. (a) An allocation made pursuant to this
22 chapter shall be used for the purposes specified in an
23 approved application.

24 (b) If the department determines that an allocation
25 has been expended for purposes other than those
26 specified in an approved application, it shall immediately
27 request the return of the full amount of the allocation.
28 The eligible institution shall immediately comply with
29 that request.

30 25261. The Department of Finance, at its discretion,
31 may audit the expenditure of any allocation made
32 pursuant to this chapter or the computation of any
33 payment made pursuant to Section 25258.

34 25262. In addition to the powers specifically granted
35 to the department by the other provisions of this chapter,
36 the department shall have the following powers:

37 (a) To establish qualifications and priorities, consistent
38 with the objectives of this chapter, for making allocations.

39 (b) To establish such procedures and policies as may
40 be necessary for the administration of this chapter.



1 25263. The department may expend from the State
2 Energy Conservation Assistance Account an amount to
3 pay for the actual administrative costs incurred by the
4 department pursuant to this chapter. Such amount shall
5 not exceed 5 percent of the total appropriation, to be held
6 in reserve and used to defray costs incurred by the
7 department for allocations made by the department
8 pursuant to this chapter.

9 25264. (a) Except as provided in subdivision (b), this
10 chapter shall remain in effect only until January 1, 2001,
11 and as of that date is repealed, unless a later enacted
12 statute, that is enacted before January 1, 2001, deletes or
13 extends that date.

14 (b) All loans outstanding on the January 1, 2001, repeal
15 date shall continue to be repaid on a semiannual basis, as
16 specified in Section 25258, until paid in full irrespective
17 of such repeal. All unexpended funds in the State Energy
18 Conservation Assistance Account on the January 1, 2001,
19 repeal date and thereafter shall revert to the General
20 Fund.

21
22 CHAPTER 9. LOCAL JURISDICTION ENERGY ASSISTANCE

23
24 Article 1. General Provisions

25
26 25300. The Legislature hereby finds and declares all
27 of the following:

28 (a) Energy costs account for a growing and substantial
29 portion of the operating expenses for local governments,
30 and other local jurisdictions in California.

31 (b) Substantial reductions in local jurisdiction energy
32 costs can be realized through the utilization of energy
33 conservation, management, and development
34 techniques.

35 (c) Provision of financial assistance to local
36 jurisdictions to reduce energy costs is consistent with the
37 guidelines for using federal petroleum violation escrow
38 funds which provide compensation to energy users who
39 were overcharged by oil companies that violated federal
40 oil price control regulations.

1 25301. “Local jurisdiction” means any city, county, or
2 regional planning agency, or any combination thereof
3 formed for the joint exercise of any power.

4
5 Article 2. Training and Management Assistance
6

7 25305. The department shall provide financial
8 assistance to local jurisdictions for the purpose of
9 providing staff training and support services, including
10 technical support services, in the fields of planning,
11 design, permitting, conservation, comprehensive energy
12 management, and development of energy and energy
13 resources.

14 25306. Financial assistance provided to local
15 jurisdictions under this article may not exceed 75 percent
16 of the cost of carrying out the activity, unless the
17 department determines that the public interest and
18 objectives of this chapter would be better served at a
19 higher level of state funding.

20
21 Article 3. Energy Project Assistance
22

23 25310. The department shall provide loans to local
24 jurisdictions for all of the following purposes:

25 (a) Purchase, maintenance, and evaluation of energy
26 efficient equipment for existing and new facilities,
27 including, but not limited to, equipment related to lights,
28 motors, pumps, water and wastewater systems, boilers,
29 heating, and air conditioning.

30 (b) Purchase, maintenance, and evaluation of small
31 power production systems, including, but not limited to,
32 wind, cogeneration, photovoltaics, geothermal, and
33 hydroelectric systems.

34 (c) Improve the operating efficiency of existing local
35 transportation systems.

36 25311. The department may award financial
37 assistance for project audits, feasibility studies,
38 engineering and design, and legal and financial analysis
39 related to the purposes of Section 25442.

1 25312. (a) Loans under this article may not exceed
2 one million dollars (\$1,000,000) for any one local
3 jurisdiction and financial assistance under this article may
4 not exceed 75 percent of the project cost, unless the
5 department determines that the public interest and
6 objectives of this chapter would be better served at a
7 higher loan amount.

8 (b) Loan repayments shall be made in accordance
9 with a schedule established by the department.
10 Repayment of loans shall be made in full unless the
11 department determines that the public interest and
12 objectives of this chapter would be better served by
13 negotiating a reduced loan repayment for a project which
14 failed to meet the technical or financial performance
15 criteria through no fault of the local jurisdiction.

16 25313. (a) Principal and interest payments on loans
17 under this article shall be returned to the department and
18 shall be used to make additional loans to local jurisdictions
19 pursuant to Section 25310 or to provide financial
20 assistance to local jurisdictions pursuant to Section 25305.

21 (b) Notwithstanding any other provision of law, the
22 department shall, unless it determines that the purposes
23 of this chapter would be better served by establishing an
24 alternative interest rate schedule, periodically set
25 interest rates on the loans based on surveys of existing
26 financial markets and at rates not lower than the Pooled
27 Money Investment Account.

28
29 Article 4. Program Design and Advisory Committee
30

31 25315. The department shall design a local
32 jurisdiction energy assistance program for the purpose of
33 providing financial assistance under Article 2
34 (commencing with Section 25305) and providing loans
35 under Article 3 (commencing with Section 25310) by
36 March 1, 1987, following consideration of
37 recommendations from an advisory committee
38 appointed by the department. A local jurisdiction's
39 energy assistance program shall be funded through the
40 department's existing local government assistance

1 programs, except that if a project is not eligible for
2 funding under an existing program, the department may
3 fund the project under this chapter.

4 25316. Loans made pursuant to this program shall, at
5 a minimum, be evaluated on all of the following factors:

6 (a) Project feasibility.

7 (b) Local jurisdiction financial contribution to project.

8 (c) Energy savings or energy production potential
9 sufficient to repay the loan in accordance with Section
10 25310.

11 (d) Availability of other federal or state funds.

12 (e) Potential for project replication in other local
13 jurisdictions.

14 (f) Environmental benefits.

15 (g) Economic development benefits.

16 (h) Consistency with California energy policies as
17 reflected in the department's biennial report.

18 25317. Members of the advisory committee shall
19 receive no compensation, but shall be reimbursed for
20 necessary and reasonable expenses incurred in the
21 performance of their duties.

22 Article 5. Energy Saving Transportation Program

23
24 25320. The Department of Transportation shall award
25 financial assistance to local jurisdictions for the purposes
26 of providing technical assistance and equipment to
27 improve traffic flow efficiency through optimized traffic
28 signal timing and operations.

29 25321. Financial assistance provided under this article
30 may not exceed 75 percent of the cost of carrying out the
31 activity, unless the department determines that the
32 public interest and objectives of this chapter would be
33 better served at a higher level of state funding.

34 Article 6. Miscellaneous

35
36 25325. The department shall enter into an agreement
37 with the Regents of the University of California, the
38 Trustees of the California State University, and the Board
39
40

1 of Governors of the California Community Colleges for
2 the expenditure of petroleum violation escrow funds to
3 supplement, and not supplant, other available funds to
4 improve energy efficiency at state-supported universities
5 and colleges under their respective jurisdictions by
6 funding projects involving any of the following:

7 (a) Data collection.

8 (b) Establishment of operations and maintenance
9 standards.

10 (c) Staff training.

11 (d) Ongoing energy equipment maintenance.

12 (e) Projects involving heating, ventilation, air
13 conditioning, and lighting equipment.

14 25326. (a) The California Energy Extension Service
15 shall enter into an agreement with the State Department
16 of Education to expend petroleum violation escrow funds
17 to supplement, and not supplant, other available funds in
18 order to provide grants to school districts for training and
19 support services for planning and management of energy
20 conservation and development projects.

21 (b) The department shall enter into an agreement
22 with the State Department of Education to expend
23 petroleum violation escrow funds to supplement, and not
24 supplant, other available funds in order to provide loans
25 to school districts to purchase, maintain, and evaluate
26 energy efficient equipment and small power production
27 systems.

28 25327. Not later than three years after the imposition
29 of any fees pursuant to this chapter, the department shall
30 report to the Legislature in the biennial energy
31 conservation report required by Section 25202, on the
32 effect of those fees on alternative public and private
33 financing for public sector programs.

34 25328. (a) The Local Jurisdiction Energy Assistance
35 Account is hereby created in the General Fund. All
36 money appropriated for purposes of this chapter and all
37 money received from local jurisdictions from loan
38 repayments shall be deposited in the account and
39 disbursed by the Controller as authorized by the
40 department.

(b) The department may charge a fee for the services provided under this chapter, provided that the funds used for the payment of those services shall have been made available to the local jurisdiction as a result of the realization of savings in energy costs. Those payments shall be deposited in the account. If anticipated savings do not result from the project, the repayment of fees shall be forgiven.

25329. (a) Except as provided in subdivision (b), this chapter shall remain in effect only until January 1, 2002, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2002, deletes or extends that date.

(b) All loans outstanding on the January 1, 2002, repeal date shall continue to be repaid in accordance with a schedule established by the department pursuant to Section 25312, until paid in full irrespective of that repeal. All unexpended funds in the Local Jurisdiction Energy Assistance Account on the January 1, 2002, repeal date and thereafter, shall revert to the General Fund.

CHAPTER 10. ENERGY CONSERVATION IN TRANSPORTATION

25350. As used in this chapter, “department” means the Department of Transportation.

25351. (a) The Legislature hereby finds and declares that:

(1) Due to the projected rapid growth in demand for energy, coupled with the mounting difficulties in providing energy supplies, a continuing energy shortage exists, posing a significant danger to public health and welfare.

(2) The use of the automobile represents the single largest use of energy in this state and, therefore, the growing use of energy by automobiles is a major factor contributing to such shortage.

(3) Heavy automobile traffic in our major cities has resulted in serious problems of air pollution and traffic congestion.

1 (4) Increased ridesharing by commuters would aid in
2 lowering air pollution levels, conserving energy, and
3 reducing urban traffic congestion.

4 (b) It is, therefore, the purpose of this chapter to
5 provide incentives for the wider use of ridesharing by
6 commuters in metropolitan areas.

7 25352. All state agencies shall provide assistance to
8 their employees living in metropolitan areas in
9 establishing carpools and locating potential carpool
10 participants. The department shall be responsible for
11 coordinating these efforts.

12 25353. To perform its new function of promoting and
13 assisting ridesharing, the department is authorized to
14 establish ridesharing programs in metropolitan areas for
15 public and private employees with funds made available
16 for that purpose from any source. The ridesharing
17 programs may be established and maintained entirely by
18 the department or by the department in cooperation
19 with public or private parties pursuant to contract.

20 25354. The ridesharing programs established by the
21 department may include, but are not limited to,
22 computer or manual matching systems, promotional
23 efforts to encourage carpooling, vanpooling, buspooling,
24 and flexible work hours, and preferential treatment on
25 highways.

26 25355. The department shall develop programs and
27 undertake any necessary construction to establish, for the
28 use of carpool vehicles carrying at least three persons,
29 preferential lanes on major freeways in metropolitan
30 areas where the total benefits to the carpool vehicles will
31 bear a reasonable relationship to the total adverse effects
32 on the remaining vehicles, as established on the basis of
33 an engineering study. The department shall also permit
34 such carpool vehicles to have access to preferential bus
35 lanes established on major freeways, unless congestion
36 seriously impeding the travel of buses will result or will
37 present a serious traffic hazard.

38 25356. The department is encouraged to establish as
39 soon as possible preferential lanes for the use of buses and
40 three-passenger carpool vehicles in both directions on

1 State Highway Route 10, the Santa Monica Freeway, at
2 least from Centinela Avenue to Vermont Avenue in Los
3 Angeles County. Due to the high-density traffic flow on
4 such a highway, it is necessary that the department
5 establish those preferential lanes as a pilot project so that
6 data can be developed for implementation of similar
7 projects in other areas of the state.

8
9 CHAPTER 11. ENERGY SYSTEMS

10
11 Article 1. Definitions

12
13 25375. Unless the context otherwise requires, the
14 definitions in this article govern the construction of this
15 chapter.

16 25376. “Title 24 Standards” refers to the
17 nonresidential building standards developed by the
18 department.

19 25377. “Building standard” means a building standard
20 as defined in Section 18909 of the Health and Safety Code
21 which is adopted by the department.

22 25378. “Lifecycle cost” means an estimate of the total
23 cost of acquisition, operation, maintenance, and
24 construction of any energy system within or related to a
25 structure over the design life of the structure. “Life cycle
26 cost” includes, but is not limited to, the cost of fuel,
27 materials, machinery, ancillary devices, labor, service,
28 replacement, and repairs.

29 25379. “Governmental agency” means any public
30 agency, including any agency of the state, each county,
31 city, district, association of governments, and joint power
32 agency.

33 25380. “Structure” means any building which has
34 more than 10,000 square feet of floor area and which has
35 a heating, cooling, water heating, or lighting system
36 which is designed to provide lighting and space
37 conditioning more than 1,000 hours per year.

38 25381. No governmental agency shall commence
39 construction on any new structure unless the new
40 structure complies with Title 24 Standards.

1 25382. No governmental agency shall commence
2 construction on any new structure unless the new
3 structure complies with all applicable building standards,
4 as defined in Section 25377 and published in the State
5 Building Standards Code.

6 25383. Not later than July 31, 1978, the department
7 shall prepare a manual outlining a methodology by which
8 governmental agencies and the general public may at
9 their option compare the lifecycle costs of various
10 building design alternatives. That manual will provide
11 the information and procedures necessary to evaluate a
12 building's lifecycle costs in the microclimate and utility
13 service area where it is to be built.

14 25384. Not later than July 31, 1978, the former State
15 Energy Resources Conservation and Development
16 Commission was required to develop design guidelines
17 for new construction which include energy conserving
18 options, including, but not limited to, the use of
19 daylighting, heating ventilation and air conditioning
20 economizer cycles, natural ventilation, building envelope
21 solar heat gain control mechanisms, and alternative
22 energy systems such as solar energy for space heating and
23 water heating and load management strategies. Those
24 guidelines and the cost analysis done pursuant to Section
25 25383 may be considered by government agencies at their
26 option for ultimate selection of a building design in the
27 competitive bidding process.

28 25385. Not later than July 1, 1978, the former State
29 Energy Resources Conservation and Development
30 Commission was required to develop and make available
31 to government agencies and the general public to be
32 utilized at their option lighting standards for existing
33 buildings. Those standards addressed, but were not
34 limited to, task and general area lighting levels, light
35 switching and control mechanisms, and lighting energy
36 budgets. The department may provide advice and
37 recommendations to the public or any governmental
38 agency as to the standards.

39 25386. In addition to any other requirements
40 applicable to such structure, no new state-owned

1 structure shall be constructed which is not equipped with
2 a supplementary solar water heating system, unless such
3 structure is specifically exempted from this requirement
4 by the State Architect for reasons of economic or physical
5 infeasibility.

6
7 CHAPTER 12. ENERGY FACILITY AND SITE CERTIFICATION
8

9 25400. (a) In accordance with this division, the board
10 shall have the exclusive power to certify all sites and
11 related facilities in the state, whether a new site and
12 related facility or a change or addition to an existing
13 facility. The issuance of a certificate by the board shall be
14 in lieu of any permit, certificate, or similar document
15 required by any state, local, or regional agency, or federal
16 agency to the extent permitted by federal law, for the use
17 of the site and related facilities, and shall supersede any
18 applicable statute, ordinance, or regulation of any state,
19 local, or regional agency, or federal agency to the extent
20 permitted by federal law.

21 (b) No construction of any facility or modification of
22 any existing facility shall be commenced without first
23 obtaining certification for any site and related facility by
24 the board, as prescribed in this chapter.

25 25401. The board shall certify sufficient sites and
26 related facilities which are required to provide a supply
27 of electric power sufficient to accommodate the demand
28 projected in the most recent forecast of statewide and
29 service area electric power demands adopted pursuant to
30 subdivision (b) of Section 25136.

31 25402. This chapter does not apply to any site and
32 related facility for which the Public Utilities Commission
33 has issued a certificate of public convenience and
34 necessity or which any municipal utility has approved
35 prior to January 7, 1975.

36 25403. Any person proposing to construct a facility or
37 a site to which Section 25402 applies may waive the
38 exclusion of the site and related facility from this chapter
39 by submitting to the board a notice to that effect on or

1 after July 1, 1976, and any and all of the provisions of this
2 chapter shall apply to the construction of the facility.

3 25404. (a) Each person proposing to construct a
4 thermal powerplant or electric transmission line on a site
5 shall submit to the board a notice of intention to file an
6 application for the certification of the site and related
7 facility or facilities. The notice shall be an attempt
8 primarily to determine the suitability of the proposed
9 sites to accommodate the facilities and to determine the
10 general conformity of the proposed sites and related
11 facilities with standards of the board and assessments of
12 need adopted pursuant to Sections 25130 to 25134,
13 inclusive. The notice shall be in the form prescribed by
14 the board and shall be supported by such information as
15 the board may require.

16 (b) Any site and related facility once found to be
17 acceptable pursuant to Section 25425 is, and shall
18 continue to be, eligible for consideration in an application
19 for certification without further proceedings required for
20 a notice under this chapter.

21 25405. Except as provided in Section 25403, any
22 person proposing to construct a facility excluded from
23 this chapter may waive such exclusion by submitting to
24 the board a notice of intention to file an application for
25 certification, and any and all of this chapter shall apply to
26 the construction of the facility.

27 25406. Each notice of intention to file an application
28 shall contain at least three alternative sites and related
29 facilities, at least one of which shall not be located in
30 whole or in part in the coastal zone. In addition, the
31 alternative sites and related electrical facilities may be
32 proposed from an inventory of sites which have
33 previously been approved by the board in a notice of
34 intent or may be proposed from sites previously
35 examined.

36 25407. The notice of intention shall include a
37 statement by the applicant describing the location of the
38 proposed sites by section or sections, range and township,
39 and county; a summary of the proposed design criteria of
40 the facilities; the type or types of fuels to be used; the

1 methods of construction and operation; the proposed
2 location of facilities and structures on each site; a
3 preliminary statement of the relative economic,
4 technological, and environmental advantages and
5 disadvantages of the alternative site and related facility
6 proposals; a statement of need for the facility and
7 information showing the compatibility of the proposals
8 with the most recent electricity report issued pursuant to
9 Section 25134; and any other information that an electric
10 utility deems desirable to submit to the board.

11 25408. An applicant may, in the notice, propose a site
12 to be approved which will accommodate a potential
13 maximum electric generating capacity in excess of the
14 capacity being proposed for the initial approval of the
15 board. If such a proposal is made, the notice shall include,
16 but not be limited to, in addition to the information
17 specified in Section 25407, all of the following:

18 (a) The number, type, and energy source of electric
19 generating units which the site is proposed ultimately to
20 accommodate and the maximum generating capacity for
21 each unit.

22 (b) The projected installation schedule for each unit.

23 (c) The impact at the site when fully developed, on the
24 environment and public health and safety.

25 (d) The amount and sources of cooling water needed
26 at the fully developed site.

27 (e) The location and specifications of auxiliary
28 facilities planned for each state of development,
29 including, but not limited to, pipelines, waste storage
30 facilities, fuel storage facilities, switchyards, coolant lines,
31 coolant outfalls, and cooling ponds, lakes, or towers.

32 25409. Upon receipt of a notice, the board shall cause
33 a summary of the notice to be published in a newspaper
34 of general circulation in each county in which the sites
35 and related facilities, or any part thereof, designated in
36 the notice are proposed to be located. The board shall also
37 transmit a copy of the notice to the Public Utilities
38 Commission, for sites and related facilities requiring a
39 certificate of public convenience and necessity, and to
40 other federal, state, regional, and local agencies having an

1 interest in matters pertinent to the proposed facilities at
2 any of the alternative sites. A copy of the notice shall also
3 be transmitted to the Attorney General.

4 25410. The board shall request the appropriate local,
5 regional, state, and federal agencies to make comments
6 and recommendations regarding the design, operation,
7 and location of the facilities designated in the notice, in
8 relation to environmental quality, public health and
9 safety, and other factors on which they may have
10 expertise.

11 25411. The board shall request the Public Utilities
12 Commission, for sites and related facilities requiring a
13 certificate of public convenience and necessity, to make
14 comments and recommendations regarding the design,
15 operation, and location of the facilities designated in the
16 notice in relation to the economic, financial, rate, system
17 reliability, and service implications of the proposed
18 facilities.

19 25412. (a) If any alternative site and related facility
20 proposed in the notice is proposed to be located, in whole
21 or in part, within the coastal zone, the board shall transmit
22 a copy of the notice to the California Coastal Commission.
23 The California Coastal Commission shall analyze the
24 notice and prepare the report and findings prescribed by
25 subdivision (d) of Section 30413 prior to commencement
26 of hearings pursuant to Section 25420.

27 (b) If any alternative site and related facility proposed
28 in the notice is proposed to be located, in whole or in part,
29 within the Suisun Marsh, or within the jurisdiction of the
30 San Francisco Bay Conservation and Development
31 Commission, the board shall transmit a copy of the notice
32 to the San Francisco Bay Conservation and Development
33 Commission. The San Francisco Bay Conservation and
34 Development Commission shall analyze the notice and
35 prepare the report and findings prescribed by subdivision
36 (d) of Section 66645 of the Government Code prior to
37 commencement of hearings pursuant to Section 25420.

38 25413. The board shall cooperate with, and render
39 advice to, the California Coastal Commission and the San
40 Francisco Bay Conservation and Development

1 Commission in studying applications for any site and
2 related facility proposed to be located, in whole or in part,
3 within the coastal zone, the Suisun Marsh, or the
4 jurisdiction of the San Francisco Bay Conservation and
5 Development Commission if requested by the California
6 Coastal Commission or the San Francisco Bay
7 Conservation and Development Commission, as the case
8 may be. The California Coastal Commission or the San
9 Francisco Bay Conservation and Development
10 Commission, as the case may be, may participate in public
11 hearings on the notice and on the application for site and
12 related facility certification as an interested party in such
13 proceedings.

14 25414. Within 45 days of the filing of the notice, the
15 board shall conduct public informational presentations in
16 the county or counties in which the proposed sites and
17 related facilities are located. The place of those public
18 informational presentations shall be as close as
19 practicable to the proposed sites. The presentations shall
20 be for the purpose of setting forth the electrical demand
21 basis for the proposed site and related facility and
22 providing knowledge and understanding of the proposed
23 facilities and sites.

24 25415. Not sooner than 15 days from the date of the
25 conclusion of the presentations pursuant to Section 25414,
26 the board shall commence nonadjudicatory hearings.
27 Those hearings shall identify issues for adjudication in
28 hearings pursuant to Section 25420, issues which may be
29 eliminated from further consideration in the notice
30 proceedings, and issues which should be deferred to the
31 certification proceeding. Any person may participate to
32 the extent determined to be reasonable and relevant by
33 the presiding member of the board in any such hearing.
34 In scheduling those hearings, the presiding member shall
35 confer with the public adviser to provide that the hearing
36 dates and locations are as convenient as possible for
37 interested parties and the public. Those hearings shall be
38 conducted to accomplish all of the following purposes:

39 (a) Set forth the electrical demand basis for the
40 proposed site and related facility.



1 (b) Provide knowledge and understanding of
2 proposed facilities and sites.

3 (c) Obtain the views and comments of the public,
4 parties, and concerned governmental agencies on the
5 environmental, public health and safety, economic,
6 social, and land use impacts of the facility at the proposed
7 sites.

8 (d) Solicit information regarding reasonable
9 alternative sources of the electric generating capacity or
10 energy to be provided by alternative sites and related
11 facilities, or combinations thereof, which will better carry
12 out the policies and objectives of this division.

13 25416. After the conclusion of the hearings required
14 in Section 25415, and not later than 150 days from the date
15 of filing of the notice, the board shall prepare and make
16 public a summary and hearing order on the notice of
17 intention to file an application. The board may include
18 within the summary and hearing order any other
19 alternatives proposed by the board or presented to the
20 board at a public hearing prior to preparation of the
21 summary and hearing order. The summary and hearing
22 order shall be published and made available to the public
23 and to interested local, regional, state, and federal
24 agencies.

25 25417. The board shall review the factors related to
26 safety and reliability of the facilities at each of the
27 alternative sites designated in the notice. In addition to
28 other information requested of the applicant, the board
29 shall, in determining the appropriateness of sites and
30 related facilities, require detailed information on
31 proposed emergency systems and safety precautions,
32 plans for transport, handling and storage of wastes and
33 fuels, proposed methods to prevent illegal diversion of
34 nuclear fuels, special design features to account for
35 seismic and other potential hazards, proposed methods to
36 control density of population in areas surrounding
37 nuclear powerplants, and such other information as the
38 board may determine to be relevant to the reliability and
39 safety of the facility at the proposed sites. The board shall
40 analyze the information provided by the applicant,

1 supplementing it, if necessary, by onsite investigations
2 and other studies. The board shall determine the
3 adequacy of measures proposed by the applicant to
4 protect public health and safety, and shall include its
5 findings in the final report required by Section 25421.

6 25418. (a) The summary and hearing order shall be
7 based upon the record of the proceeding, including
8 statements or documents presented during any hearing
9 or informational presentation on the notice, the
10 comments transmitted by the Public Utilities
11 Commission and local, regional, state, and federal
12 agencies and the public to the board, and independent
13 studies conducted by the board's staff.

14 (b) The summary and hearing order shall:

15 (1) Identify those issues for consideration in hearings
16 pursuant to Section 25420.

17 (2) Identify those issues which may be eliminated
18 from further consideration in the notice of intention
19 proceedings.

20 (3) Identify those issues which should be deferred to
21 the certification proceeding.

22 (4) Contain proposed findings on matters relevant to
23 the provisions of Section 25421.

24 (5) Specify dates for the adjudicatory hearings.

25 25419. Within 15 days of the publication of the
26 summary and hearing order, a copy shall be distributed
27 to any person who requests such copy.

28 25420. Not earlier than 30 days from the date of
29 distribution of the summary and hearing order, the board
30 shall commence adjudicatory hearings pursuant to the
31 hearing order.

32 25421. After conclusion of the hearings held pursuant
33 to Section 25420 and not later than 300 days after the filing
34 of the notice, a final report shall be prepared and
35 distributed. The final report shall include, but not be
36 limited to, all of the following:

37 (a) The findings and conclusions of the board
38 regarding the conformity of alternative sites and related
39 facilities designated in the notice or considered in the
40 notice of intention proceeding with both of the following:

1 (1) The 12-year forecast of statewide and service area
2 electric power demands adopted pursuant to subdivision
3 (e) of Section 25130, except as provided in Section 25423.

4 (2) Applicable local, regional, state, and federal
5 standards, ordinances, and laws, including any long-range
6 land use plans or guidelines adopted by the state or by any
7 local or regional planning agency, which would be
8 applicable but for the exclusive authority of the board to
9 certify sites and related facilities; and the standards
10 adopted by the department pursuant to Section 25057.

11 (b) Any findings and comments submitted by the
12 California Coastal Commission pursuant to Section 25412
13 and subdivision (d) of Section 30413.

14 (c) Any findings and comments submitted by the San
15 Francisco Bay Conservation and Development
16 Commission pursuant to Section 25412 of this code and
17 subdivision (d) of Section 66645 of the Government
18 Code.

19 (d) The board's findings on the acceptability and
20 relative merit of each alternative siting proposal
21 designated in the notice or presented at the hearings and
22 reviewed by the board. The specific findings of relative
23 merit shall be made pursuant to Sections 25404 to 25425,
24 inclusive. In its findings on any alternative siting proposal,
25 the board may specify modification in the design,
26 construction, location, or other conditions which will
27 meet the standards, policies, and guidelines established
28 by the department.

29 (e) Findings and conclusions with respect to the safety
30 and reliability of the facility or facilities at each of the sites
31 designated in the notice, as determined by the board
32 pursuant to Section 25417, and any conditions,
33 modifications, or criteria proposed for any site and
34 related facility proposal resulting from the findings and
35 conclusions.

36 25422. In specifying any modifications, conditions, or
37 criteria pursuant to Section 25421, for sites and related
38 facilities requiring a certificate of public convenience and
39 necessity, the board shall request the comments and
40 recommendations of the Public Utilities Commission on

1 the economic, financial, rate, system reliability, and
2 service implications of the modifications, conditions, or
3 criteria.

4 25423. In considering the acceptability of a site
5 proposed to accommodate ultimately additional
6 power-generating capacity, the board, in determining,
7 pursuant to Sections 25418 and 25421, the conformity of
8 the facilities proposed in the notice with the 12-year
9 forecast of statewide and service area electric power
10 demands adopted pursuant to subdivision (e) of Section
11 25130, shall base its determination only on such initial
12 facilities as are proposed for operation within the
13 forthcoming 12-year period. Additional facilities
14 projected to be operating at the site at a time beyond the
15 forthcoming 12-year period shall not be considered in the
16 determination of conformity with the electric power
17 demand forecast.

18 25424. Not later than 30 days from the date of
19 distribution of the final report, a hearing or hearings on
20 the final report shall be commenced. The hearings shall
21 be concluded within 15 days of their commencement.

22 25425. (a) The approval of the notice by the board
23 shall be based upon findings made pursuant to Section
24 25421. The notice shall not be approved unless the board
25 finds that at least two alternative site and related facility
26 proposals considered in the board's final report are
27 acceptable. If the board does not find at least two sites and
28 related facilities acceptable, additional sites and related
29 facilities may be proposed by the applicant which shall be
30 considered in the same manner as those proposed in the
31 original notice.

32 (b) If the board finds that a good faith effort has been
33 made by the person submitting the notice to find an
34 acceptable alternative site and related facility and that
35 there is only one acceptable site and related facility
36 among those submitted, the board may approve the
37 notice based on the one site and related facility. If a notice
38 is approved based on one site and related facility, the
39 board may require a new notice to be filed to identify
40 acceptable alternative sites and related facilities for the



1 one site and related facility approved unless suitable
2 alternative sites and related facilities have been approved
3 by the board in previous notice of intention proceedings.

4 (c) If the board finds that additional electric
5 generating capacity is needed to accommodate the
6 electric power demand forecast pursuant to subdivision
7 (e) of Section 25130 and, after the board finds that a good
8 faith effort was made by the person submitting the notice
9 to propose an acceptable site and related facility, the
10 board fails to find any proposed site and related facility to
11 be acceptable, the board shall designate, at the request of,
12 and at the expense of, the person submitting the notice,
13 a feasible site and related facility for providing the
14 needed electric generating capacity.

15 25426. If a site and related facility found to be
16 acceptable by the board pursuant to Section 25425 is
17 located in the coastal zone, the Suisun Marsh, or the
18 jurisdiction of the San Francisco Bay Conservation and
19 Development Commission, no application for
20 certification may be filed pursuant to Section 25432 unless
21 the board has determined, pursuant to Section 25421, that
22 the site and related facility have greater relative merit
23 than available alternative sites and related facilities for an
24 applicant's service area which have been determined to
25 be acceptable by the board pursuant to Section 25425.

26 25427. (a) On a notice which proposes an expanded
27 ultimate electric generating capacity for a site, the board
28 may, based upon the findings made pursuant to Section
29 25421, either approve the notice only for the initial facility
30 or facilities proposed for operation within the
31 forthcoming 12-year period or approve the notice for the
32 initial facility or facilities and find the site acceptable for
33 additional generating capacity of the type tentatively
34 proposed. The maximum allowable amount and type of
35 that additional capacity shall be determined by the board.

36 (b) If a notice is approved which includes a finding
37 that a particular site is suitable to accommodate a
38 particular additional generating capacity, the site shall be
39 designated a potential multiple-facility site. The board
40 may, in determining the acceptability of a potential

1 multiple-facility site, specify conditions or criteria
2 necessary to insure that future additional facilities will not
3 exceed the limitations of the site.

4 25428. (a) Except as otherwise expressly provided in
5 this division, the board shall issue its written decision on
6 the notice not later than 12 months after the notice is
7 filed, or at any later time as is mutually agreed upon by
8 the board and the applicant.

9 (b) The board shall determine, within 45 days after it
10 receives the notice, whether the notice is complete. If the
11 board determines that the notice is complete, the notice
12 shall be deemed filed for purposes of this section on the
13 date that this determination is made. If the board
14 determines that the notice is incomplete, the board shall
15 specify, in writing, those parts of the notice which are
16 incomplete and shall indicate the manner in which the
17 notice can be made complete. If the applicant submits
18 additional data to complete the notice, the board shall
19 determine, within 30 days from the date of receipt of that
20 data, whether the data is sufficient to make the notice
21 complete. The notice shall be deemed filed on the date
22 that the board determines that the notice is complete if
23 the board has adopted regulations specifying the
24 informational requirements for a complete notice, but if
25 the board has not adopted those regulations, the notice
26 shall be deemed filed on the last date that the board
27 receives any additional data that completes the notice.

28 25429. Except as provided in Section 25402, no
29 construction of any thermal powerplant or electric
30 transmission line shall be commenced by any electric
31 utility without first obtaining certification as prescribed
32 in this division. Any onsite improvements not qualifying
33 as construction may be required to be restored as
34 determined by the board to be necessary to protect the
35 environment, if certification is denied.

36 25430. The Public Utilities Commission shall issue no
37 certificate of public convenience and necessity for a site
38 or related electrical facilities unless the utility has
39 obtained a certificate from the board.



1 25431. Nothing in this division shall preclude the
2 concurrent initiation of an application for a certificate of
3 public convenience and necessity from the Public
4 Utilities Commission subject to the condition specified in
5 Section 25430.

6 25432. (a) To obtain certification for a site and
7 related facility, an application for certification of the site
8 and related facility shall be filed with the board. The
9 application shall be in a form prescribed by the board and
10 shall be for a site and related facility which has been found
11 to be acceptable by the board pursuant to Section 25425,
12 or for an additional facility at a site which has been
13 designated a potential multiple-facility site pursuant to
14 Section 25423 and found to be acceptable pursuant to
15 Sections 25425 and 25427. An application for an additional
16 facility at a potential multiple-facility site shall be subject
17 to the conditions and review specified in Section 25434.
18 An application may not be filed for a site and related
19 facility, if there is no suitable alternative for the site and
20 related facility which was previously found to be
21 acceptable by the board, unless the board has approved
22 the notice based on the one site as specified in Section
23 25425.

24 (b) The board, upon its own motion or in response to
25 the request of any party, may require the applicant to
26 submit any information, document, or data, in addition to
27 the attachments required by subdivision (i), which the
28 board determines is reasonably necessary to make any
29 decision on the application.

30 (c) The board shall be the lead agency as provided in
31 Section 21165 for all projects which require certification
32 pursuant to this chapter and for projects which are
33 exempted from that certification pursuant to Section
34 25465. Unless the board's regulatory program governing
35 site and facility certification and related proceedings are
36 certified by the Resources Agency pursuant to Section
37 21080.5, an environmental impact report shall be
38 completed within one year after receipt of the
39 application. If the board prepares a document or
40 documents in the place of an environmental impact

1 report or negative declaration under a regulatory
2 program certified pursuant to Section 21080.5, any other
3 public agency which is required to make a decision that
4 is subject to Division 13 (commencing with Section
5 21000), on a site or related facility, shall use the document
6 or documents prepared by the board in the same manner
7 as they would use an environmental impact report or
8 negative declaration prepared by a lead agency.

9 (d) If the site and related facility specified in the
10 application is proposed to be located in the coastal zone,
11 the board shall transmit a copy of the application to the
12 California Coastal Commission for its review and
13 comments.

14 (e) If the site and related facility specified in the
15 application is proposed to be located in the Suisun Marsh
16 or the jurisdiction of the San Francisco Bay Conservation
17 and Development Commission, the board shall transmit
18 a copy of the application to the San Francisco Bay
19 Conservation and Development Commission for its
20 review and comments.

21 (f) Upon receipt of an application, the board shall
22 forward the application to local governmental agencies
23 having land use and related jurisdiction in the area of the
24 proposed site and related facility. Those local agencies
25 shall review the application and submit comments on,
26 among other things, the design of the facility,
27 architectural and aesthetic features of the facility, access
28 to highways, landscaping and grading, public use of lands
29 in the area of the facility, and other appropriate aspects
30 of the design, construction, or operation of the proposed
31 site and related facility.

32 (g) Upon receipt of an application, the board shall
33 cause a summary of the application to be published in a
34 newspaper of general circulation in the county in which
35 the site and related facilities, or any part thereof,
36 designated in the application, is proposed to be located.
37 The board shall transmit a copy of the application to each
38 federal and state agency having jurisdiction or special
39 interest in matters pertinent to the proposed site and
40 related facilities and to the Attorney General.



1 (h) The adviser shall require that adequate notice is
2 given to the public and that the procedures specified by
3 this division are complied with.

4 (i) For any proposed site and related facility requiring
5 a certificate of public convenience and necessity, the
6 board shall transmit a copy of the application to the Public
7 Utilities Commission and request the comments and
8 recommendations of the Public Utilities Commission on
9 the economic, financial, rate, system reliability, and
10 service implications of the proposed site and related
11 facility. If the board requires modification of the proposed
12 facility, the board shall consult with the Public Utilities
13 Commission regarding the economic, financial, rate,
14 system reliability, and service implications of such
15 modifications.

16 (j) The board shall transmit a copy of the application
17 to any governmental agency not specifically mentioned
18 in this section, but which it finds has any information or
19 interest in the proposed site and related facilities, and
20 shall invite the comments and recommendations of each
21 such agency. The board shall request any relevant laws,
22 ordinances, or regulations which any such agency has
23 promulgated or administered.

24 (k) An application for certification of any site and
25 related facilities shall contain a listing of every federal
26 agency from which any approval or authorization
27 concerning the proposed site is required, specifying the
28 approvals or authorizations obtained at the time of the
29 application and the schedule for obtaining any approvals
30 or authorizations pending.

31 25433. The application shall contain all of the
32 following information and any other information that the
33 board by regulation may require:

34 (a) A detailed description of the design, construction,
35 and operation of the proposed facility.

36 (b) Safety and reliability information, including, in
37 addition to documentation previously provided pursuant
38 to Section 25417, planned provisions for emergency
39 operations and shutdowns.

1 (c) Available site information, including maps and
2 descriptions of present and proposed development and,
3 as appropriate, geological, aesthetic, ecological, seismic,
4 water supply, population, and load center data, and
5 justification for the particular site proposed.

6 (d) Any other information relating to the design,
7 operation, and siting of the facility that the board may
8 specify.

9 (e) A statement of need providing information
10 showing compatibility of the proposed facility with the
11 most recent electricity report issued by the board
12 pursuant to Sections 25130 to 25134, inclusive, or, where
13 applicable, information pertinent to Section 25438
14 regarding the conformity of a competitive solicitation for
15 new generation resources with the integrated assessment
16 of need for new resource additions determined pursuant
17 to subdivisions (a) to (f), inclusive, of Section 25130 and
18 adopted pursuant to Section 25134, and in effect at the
19 time that the competitive solicitation for new generation
20 resources, as described in subdivision (f) of Section 25437,
21 was developed.

22 (f) A description of the facility, the cost of the facility,
23 the fuel to be used, the source of fuel, fuel cost, plant
24 service life and capacity factor, and generating cost per
25 kilowatt hour.

26 (g) A description of any electric transmission lines,
27 including the estimated cost of the proposed electric
28 transmission line; a map in suitable scale of the proposed
29 routing showing details of the rights-of-way in the vicinity
30 of settled areas, parks, recreational areas, and scenic
31 areas, and existing transmission lines within one mile of
32 the proposed route; justification for the route, and a
33 preliminary description of the effect of the proposed
34 electric transmission line on the environment, ecology,
35 and scenic, historic, and recreational values.

36 25434. (a) In reviewing an application for an
37 additional facility at a potential multiple-facility site, the
38 board shall undertake a reconsideration of its prior
39 determinations in the final report on the notice for the
40 site issued pursuant to Section 25421, based on current



1 conditions and other reasonable and feasible alternatives
2 to the proposed facility.

3 (b) Within 180 days from the date of filing of the
4 application for an additional facility at a potential
5 multiple-facility site and after adequate public hearings,
6 the board shall issue its decision on the acceptability of the
7 proposed facility based on the reconsideration specified
8 in subdivision (a). A negative determination shall be the
9 final decision of the board on the application and subject
10 to judicial review pursuant to Section 25449. An
11 affirmative determination shall not be a final decision of
12 the board on the application.

13 (c) The decision of the board on an application for an
14 additional facility at a potential multiple-facility site
15 receiving a favorable determination pursuant to
16 subdivision (b) shall be issued within 24 months from the
17 date of the filing of the application or at such later time
18 as is mutually agreed upon by the board and the
19 applicant.

20 25435. Not earlier than 90, nor later than 240, days
21 after the date of the filing of an application, the board
22 shall commence a public hearing or hearings thereon in
23 Sacramento, San Francisco, Los Angeles, or San Diego,
24 whichever city is nearest the proposed site. Additionally,
25 the board may hold a hearing or hearings in the county
26 in which the proposed site and related facilities are to be
27 located.

28 25436. (a) Except as provided in subdivision (c) of
29 Section 25434, within 18 months of the date of the filing
30 of an application for certification, or within 12 months if
31 the application is filed within one year of the board's
32 approval of the notice of intent, or at any later time as is
33 mutually agreed upon by the board and the applicant, the
34 board shall issue a written decision as to the application.

35 (b) The board shall determine, within 45 days from the
36 date that the board receives the application, whether the
37 application is complete. If the board determines that the
38 application is complete, the application shall be deemed
39 filed for purposes of this section on the date that this
40 determination is made. If the board determines that the

1 application is incomplete, the board shall specify in
2 writing those parts of the application which are
3 incomplete and shall indicate the manner in which it can
4 be made complete. If the applicant submits additional
5 data to complete the application, the board shall
6 determine, within 30 days from the date of receipt of that
7 data, whether the data is sufficient to make the
8 application complete. The application shall be deemed
9 filed on the date that the board determines that the
10 application is complete if the board has adopted those
11 regulations specifying the informational requirements
12 for a complete application, but if the board has not
13 adopted regulations, the application shall be deemed
14 filed on the last date that the board receives any
15 additional data that completes the application.

16 25437. The board shall prepare a written decision
17 after the public hearing on an application, which includes
18 all of the following:

19 (a) Specific provisions relating to the manner in which
20 the proposed facility is to be designed, sited, and operated
21 to protect environmental quality and assure public health
22 and safety.

23 (b) In the case of a site to be located in the coastal zone,
24 specific provisions to meet the objectives of Division 20
25 (commencing with Section 30000) as may be specified in
26 the report submitted by the California Coastal
27 Commission pursuant to subdivision (d) of Section 30413,
28 unless the board specifically finds that the adoption of the
29 provisions specified in the report would result in greater
30 adverse effect on the environment or that the provisions
31 proposed in the report would not be feasible.

32 (c) In the case of a site to be located in the Suisun
33 Marsh or in the jurisdiction of the San Francisco Bay
34 Conservation and Development Commission, specific
35 provisions to meet the requirements of Division 19
36 (commencing with Section 29000) of this code or Title 7.2
37 (commencing with Section 66600) of the Government
38 Code as may be specified in the report submitted by the
39 San Francisco Bay Conservation and Development
40 Commission pursuant to subdivision (d) of Section 66645



1 of the Government Code, unless the board specifically
2 finds that the adoption of the provisions specified in the
3 report would result in greater adverse effect on the
4 environment or the provisions proposed in the report
5 would not be feasible.

6 (d) (1) Findings regarding the conformity of the
7 proposed site and related facilities with standards
8 adopted by the department pursuant to subdivision (a)
9 of Section 25057 and standards adopted by the board
10 pursuant to subdivision (d) of Section 25204, with public
11 safety standards and the applicable air and water quality
12 standards, and with other relevant local, regional, state,
13 and federal standards, ordinances, or laws. If the board
14 finds that there is noncompliance with any state, local, or
15 regional ordinance or regulation in the application, the
16 board shall consult and meet with the state, local, or
17 regional governmental agency concerned to attempt to
18 correct or eliminate the noncompliance. If the
19 noncompliance cannot be corrected or eliminated, the
20 board shall inform the state, local, or regional
21 governmental agency if the board makes the findings
22 required by Section 25443.

23 (2) The board shall not find that the proposed facility
24 conforms with applicable air quality standards pursuant
25 to paragraph (1) unless the applicable air pollution
26 control district or air quality management district
27 certifies that complete emissions offsets for the proposed
28 facility have been identified and will be obtained by the
29 applicant prior to the board's licensing of the project, to
30 the extent that the proposed facility requires emission
31 offsets to comply with local, regional, state, or federal air
32 quality standards.

33 (e) Provision for restoring the site as necessary to
34 protect the environment, if the board denies approval of
35 the application.

36 (f) Findings regarding the conformity of the proposed
37 facility with the integrated assessment of need for new
38 resource additions determined pursuant to subdivisions
39 (a) to (f), inclusive, of Section 25130 and adopted
40 pursuant to Section 25134 or, where applicable, findings

1 pursuant to Section 25438 regarding the conformity of a
2 competitive solicitation for new generation resources
3 with the integrated assessment of need for new resource
4 additions determined pursuant to subdivisions (a) to (f),
5 inclusive, of Section 25130 and adopted pursuant to
6 Section 25134 that was in effect at the time that the
7 solicitation was developed.

8 (g) In the case of a geothermal site and related facility,
9 findings on whether there are sufficient commercial
10 quantities of geothermal resources available to operate
11 the proposed facility for its planned life.

12 (h) In the case of a site and related facility using
13 resource recovery (waste-to-energy) technology,
14 specific conditions requiring that the facility be
15 monitored to ensure compliance with paragraphs (1),
16 (2), (3), and (6) of subdivision (a) of Section 42315 of the
17 Health and Safety Code.

18 (i) In the case of a facility, other than a resource
19 recovery facility subject to subdivision (h), specific
20 conditions requiring the facility to be monitored to
21 ensure compliance with toxic air contaminant control
22 measures adopted by an air pollution control district or air
23 quality management district pursuant to subdivision (d)
24 of Section 39666 or Section 41700 of the Health and Safety
25 Code, whether the measures were adopted before or
26 after issuance of a determination of compliance by the
27 district.

28 25438. The board shall make an affirmative finding
29 pursuant to subdivision (f) of Section 25437 if the
30 proposed facility is either of the following:

31 (a) The result of the Public Utilities Commission's
32 Final Standard Offer No. 4 auction on the Request for
33 Bids issued in August 1993.

34 (b) The result of a utility's competitive solicitation for
35 new generation resources which limits the amount of new
36 generation to an amount of capacity or energy at or below
37 the amount of capacity or energy determined to be
38 needed for the utility through the integrated assessment
39 of need for new resource additions determined pursuant
40 to subdivisions (a) to (f), inclusive, of Section 25130 and



1 adopted pursuant to Section 25134, and in effect at the
2 time that the solicitation was developed, provided that
3 the application for certification for the proposed facility
4 is filed within 18 months after contracts have been
5 executed from the utility's competitive solicitation.

6 25439. (a) The board shall not certify any facility
7 contained in the application, unless its findings with
8 respect to subdivision (f) of Section 25437 are in the
9 affirmative.

10 (b) The board shall not certify any geothermal site and
11 related facility unless it finds that the geothermal field
12 dedicated to the proposed powerplant is reasonably
13 capable of providing geothermal resources in sufficient
14 commercial quantities to supply the powerplant over its
15 planned life.

16 25440. (a) Except for the existing Diablo Canyon
17 Units 1 and 2 owned by Pacific Gas and Electric Company
18 and San Onofre Units 2 and 3 owned by Southern
19 California Edison Company and San Diego Gas and
20 Electric Company, no nuclear fission thermal powerplant
21 requiring the reprocessing of fuel rods, including any to
22 which this chapter does not otherwise apply, excepting
23 any having a vested right as defined in this section, shall
24 be permitted land use in the state or, where applicable,
25 certified by the board until both of the following
26 conditions are met:

27 (1) The board finds that the United States through its
28 authorized agency has identified and approved, and
29 there exists a technology for the construction and
30 operation of, nuclear fuel rod reprocessing plants.

31 (2) (A) The board has reported its findings and the
32 reasons therefor pursuant to paragraph (1) to the
33 Legislature. That report shall be assigned to the
34 appropriate policy committees for review. The board
35 may proceed to certify nuclear fission thermal
36 powerplants 100 legislative days from the date of the
37 reporting of its findings unless within those 100 legislative
38 days either house of the Legislature adopts by a majority
39 vote of its members a resolution disaffirming the findings
40 of the board made pursuant to paragraph (1).

1 (B) A resolution of disaffirmance shall set forth the
2 reasons for the action and shall provide, to the extent
3 possible, guidance to the board as to an appropriate
4 method of bringing the board's findings into
5 conformance with paragraph (1).

6 (C) If a disaffirming resolution is adopted, the board
7 shall reexamine its original findings consistent with
8 matters raised in the resolution. On conclusion of its
9 reexamination, the board shall transmit its findings in
10 writing, with the reasons therefor, to the Legislature.

11 (D) If the findings are that the conditions of paragraph
12 (1) have been met, the board may proceed to certify
13 nuclear fission thermal powerplants 100 legislative days
14 from the date of the reporting of its findings to the
15 Legislature unless within those 100 legislative days both
16 houses of the Legislature act by statute to declare the
17 findings null and void and takes appropriate action.

18 (E) To allow sufficient time for the Legislature to act,
19 the reports of findings of the board shall be submitted to
20 the Legislature at least six calendar months prior to the
21 adjournment of the Legislature sine die.

22 (b) The board shall further find, on a case-by-case
23 basis, that facilities with adequate capacity to reprocess
24 nuclear fuel rods from a certified nuclear facility or to
25 store that fuel if that storage is approved by an authorized
26 agency of the United States are in actual operation or will
27 be in operation at the time that the nuclear facility
28 requires reprocessing or storage; provided, however, that
29 the storage of fuel is in an offsite location to the extent
30 necessary to provide continuous onsite full core reserve
31 storage capacity.

32 (c) The board shall continue to receive and process
33 notices of intention and applications for certification
34 pursuant to this division, but shall not issue a decision
35 pursuant to Section 25437 granting a certificate until the
36 requirements of this section have been met. All other
37 permits, licenses, approvals, or authorizations for the
38 entry or use of the land, including orders of court, which
39 may be required may be processed and granted by the
40 governmental entity concerned, but construction work

1 to install permanent equipment or structures shall not
2 commence until the requirements of this section have
3 been met.

4 25441. (a) Except for the existing Diablo Canyon
5 Units 1 and 2 owned by Pacific Gas and Electric Company
6 and San Onofre Units 2 and 3 owned by Southern
7 California Edison Company and San Diego Gas and
8 Electric Company, no nuclear fission thermal
9 powerplant, including any to which this chapter does not
10 otherwise apply, but excepting those exempted herein,
11 shall be permitted land use in the state, or if applicable,
12 be certified by the board until both of the following
13 conditions have been met:

14 (1) The board finds that there has been developed and
15 that the United States through its authorized agency has
16 approved and there exists a demonstrated technology or
17 means for the disposal of high-level nuclear waste.

18 (2) (A) The board has reported its findings and the
19 reasons therefor pursuant to paragraph (1) to the
20 Legislature. That report shall be assigned to the
21 appropriate policy committees for review. The board
22 may proceed to certify nuclear fission thermal
23 powerplants 100 legislative days from the date of the
24 reporting of its findings unless within those 100 legislative
25 days either house of the Legislature adopts by a majority
26 vote of its members a resolution disaffirming the findings
27 of the board made pursuant to paragraph (1).

28 (B) A resolution of disaffirmance shall set forth the
29 reasons for the action and shall provide, to the extent
30 possible, guidance to the board as to an appropriate
31 method of bringing the board's findings into
32 conformance with paragraph (1).

33 (C) If a disaffirming resolution is adopted, the board
34 shall reexamine its original findings consistent with
35 matters raised in the resolution. On conclusion of its
36 reexamination, the board shall transmit its findings in
37 writing, with the reasons therefor, to the Legislature.

38 (D) If the findings are that the conditions of paragraph
39 (1) have been met, the board may proceed to certify
40 nuclear fission thermal powerplants 100 legislative days

1 from the date of the reporting of its findings to the
2 Legislature unless within those 100 legislative days both
3 houses of the Legislature act by statute to declare the
4 findings null and void and take appropriate action.

5 (E) To allow sufficient time for the Legislature to act,
6 the reports of findings of the board shall be submitted to
7 the Legislature at least six calendar months prior to the
8 adjournment of the Legislature sine die.

9 (b) As used in paragraph (1) of subdivision (a),
10 “technology or means for the disposal of high-level
11 nuclear waste” means a method for the permanent and
12 terminal disposition of high-level nuclear waste. Nothing
13 in this section requires that facilities for the application of
14 that technology or means be available at the time that the
15 board makes its findings. That disposition of high-level
16 nuclear waste does not preclude the possibility of an
17 approved process for retrieval of the waste.

18 (c) The board shall continue to receive and process
19 notices of intention and applications for certification
20 pursuant to this division but shall not issue a decision
21 pursuant to Section 25437 granting a certificate until the
22 requirements of this section have been met. All other
23 permits, licenses, approvals, or authorizations for the
24 entry or use of the land, including orders of court, which
25 may be required may be processed and granted by the
26 governmental entity concerned, but construction work
27 to install permanent equipment or structures shall not
28 commence until the requirements of this section have
29 been met.

30 25442. The board shall not certify any facility which
31 adds generating capacity to a potential multiple-facility
32 site in excess of the maximum allowable capacity
33 established by the board pursuant to Section 25427, unless
34 the board finds that exceeding the maximum allowable
35 capacity will not increase adverse environmental impacts
36 or create technological, seismic, or other difficulties
37 beyond those already found acceptable in the board’s
38 findings on the notice for that site pursuant to Sections
39 25425 and 25427.



1 25443. The board shall not certify any facility
2 contained in the application if the board finds, pursuant
3 to subdivision (b) of Section 25437, that the facility does
4 not conform with any applicable state, local, or regional
5 standards, ordinances, or laws, unless the board
6 determines that the facility is required for public
7 convenience and necessity and that there are not more
8 prudent and feasible means of achieving public
9 convenience and necessity. The board shall not make any
10 finding that is in conflict with applicable federal law or
11 regulation. The basis for the board's findings shall be
12 reduced to writing and submitted as part of the record
13 pursuant to Section 25437.

14 25444. (a) The board shall not approve as a site for a
15 facility any location designated by the California Coastal
16 Commission pursuant to subdivision (b) of Section 30413,
17 unless the California Coastal Commission first finds that
18 the use is not inconsistent with the primary uses of the
19 land and that there will be no substantial adverse
20 environmental effects, and unless the approval of any
21 public agency having ownership or control of the land is
22 obtained.

23 (b) The board shall not approve as a site for a facility
24 any location designated by the San Francisco Bay
25 Conservation and Development Commission pursuant to
26 subdivision (b) of Section 66645 of the Government Code
27 unless the San Francisco Bay Conservation and
28 Development Commission first finds that the use is not
29 inconsistent with the primary uses of the land and that
30 there will be no substantial adverse environmental
31 effects, and unless the approval of any public agency
32 having ownership or control of the land is obtained.

33 25445. (a) The following areas of the state shall not be
34 approved as a site for a facility, unless the board finds that
35 the use is not inconsistent with the primary uses of the
36 lands and that there will be no substantial adverse
37 environmental effects, and the approval of any public
38 agency having ownership or control of the lands is
39 obtained:

1 (1) State, regional, county, and city parks; wilderness
2 areas or scenic or natural reserves; areas for wildlife
3 protection, recreation, or historic preservation; or natural
4 preservation areas in existence on January 7, 1975.

5 (2) Estuaries in an essentially natural and
6 undeveloped state.

7 (b) In considering applications for certification, the
8 board shall give the greatest consideration to the need for
9 protecting areas of critical environmental concern,
10 including, but not limited to, unique and irreplaceable
11 scientific, scenic, or educational wildlife habitats; unique
12 historical, archaeological, or cultural sites; lands of
13 hazardous concern; and areas under consideration by the
14 state or the United States for wilderness, or wildlife, or
15 game reserves.

16 25446. (a) (1) The board shall require, as a condition
17 of certification of any site and related facility, that the
18 applicant acquire, by grant or contract, the right to
19 prohibit the development of privately owned lands in the
20 area of the proposed site which will result in population
21 densities in excess of the maximum population densities
22 which the board determines, as to the factors considered
23 by the board pursuant to Section 25417, are necessary to
24 protect public health and safety.

25 (2) If the applicant is authorized to exercise the right
26 of eminent domain under Article 7 (commencing with
27 Section 610) of Chapter 3 of Part 1 of Division 1 of the
28 Public Utilities Code, the applicant may exercise the right
29 of eminent domain to acquire such development rights as
30 the board requires be acquired.

31 (b) In the case of an application for a nuclear facility,
32 the area and population density necessary to ensure the
33 public's health and safety designated by the board shall be
34 that as determined from time to time by the United States
35 Nuclear Regulatory Commission, if the board finds that
36 the determination is sufficiently definitive for valid land
37 use planning requirements.

38 (c) The board shall waive the requirements of the
39 acquisition of development rights by an applicant to the
40 extent that the board finds that existing governmental

1 land use restrictions are of a type necessary and sufficient
2 to guarantee the maintenance of population levels and
3 land use development over the lifetime of the facility
4 which will insure the public health and safety
5 requirements set pursuant to this section.

6 (d) No change in governmental land use restrictions
7 in the areas designated in subdivision (c) by any
8 government agency shall be effective until approved by
9 the board. That approval shall certify that the change in
10 land use restrictions is not in conflict with requirements
11 provided for by this section.

12 (e) It is not the intent of the Legislature by the
13 enactment of this section to take private property for
14 public use without payment of just compensation in
15 violation of the United States Constitution or the
16 Constitution of California.

17 25447. When a facility is proposed to be located in the
18 coastal zone or any other area with recreational, scenic,
19 or historic value, the board shall require, as a condition of
20 certification of any facility contained in the application,
21 that an area be established for public use, as determined
22 by the board. Lands within the area shall be acquired and
23 maintained by the applicant and shall be available for
24 public access and use, subject to restrictions required for
25 security and public safety. The applicant may dedicate
26 that public use zone to any local agency that agrees to
27 operate or maintain the zone for the benefit of the public.
28 If no local agency agrees to operate or maintain the public
29 use zone for the benefit of the public, the applicant may
30 dedicate the zone to the state. The board shall also require
31 that any facility to be located along the coast or shoreline
32 of any major body of water be set back from the shoreline
33 to permit reasonable public use and to protect scenic and
34 aesthetic values.

35 25448. (a) The board may order a reconsideration of
36 all or part of a decision or order on its own motion or on
37 petition of any party.

38 (b) Any such petition shall be filed within 30 days from
39 the date of adoption by the board of a decision or order.
40 The board shall not order a reconsideration on its own

1 motion more than 30 days from the date that the board
2 has adopted a decision or order. The board shall order or
3 deny reconsideration on a petition therefor within 30 days
4 from the date that the petition is filed.

5 (c) A decision or order may be reconsidered by the
6 board on the basis of all pertinent portions of the record
7 together with such argument as the board may permit, or
8 the board may hold a further hearing, after notice to all
9 interested persons. A decision or order of the board on
10 reconsideration shall have the same force and effect as an
11 original order or decision.

12 25449. (a) The decisions of the board on any
13 application of any electric utility for certification of a site
14 and related facility are subject to judicial review in the
15 same manner as the decisions of the Public Utilities
16 Commission on the application for a Certificate of Public
17 Convenience and Necessity for the same site and related
18 facility.

19 (b) No new or additional evidence may be introduced
20 upon review and the cause shall be heard on the record
21 of the board as certified to by the board. The review shall
22 not be extended further than to determine whether the
23 board has regularly pursued its authority, including a
24 determination of whether the order or decision under
25 review violates any right of the petitioner under the
26 United States Constitution or the California Constitution.
27 The findings and conclusions of the board on questions of
28 fact are final and are not subject to review, except as
29 provided in this article. These questions of fact shall
30 include ultimate facts and the findings and conclusions of
31 the board. A report prepared by, or an approval of, the
32 board pursuant to Section 25416, 25421, 25425, or 25427, or
33 subdivision (b) of Section 25434, shall not constitute a
34 decision of the board subject to judicial review.

35 (c) Subject to the right of judicial review of decisions
36 of the board, no court in this state has jurisdiction to hear
37 or determine any case or controversy concerning any
38 matter which was, or could have been, determined in a
39 proceeding before the board, or to stop or delay the
40 construction or operation of any thermal powerplant



1 except to enforce compliance with the provisions of a
2 decision of the board.

3 (d) Notwithstanding Section 1250.370 of the Code of
4 Civil Procedure:

5 (1) If the board requires, pursuant to subdivision (a)
6 of Section 25446, as a condition of certification of any site
7 and related facility, that the applicant acquire
8 development rights, that requirement conclusively
9 establishes the matters referred to in Sections 1240.030
10 and 1240.220 of the Code of Civil Procedure in any
11 eminent domain proceeding brought by the applicant to
12 acquire the development rights.

13 (2) If the board certifies any site and related facility,
14 that certification conclusively establishes the matters
15 referred to in Sections 1240.030 and 1240.220 of the Code
16 of Civil Procedure in any eminent domain proceeding
17 brought to acquire the site and related facility.

18 (e) No decision of the board pursuant to Section 25147,
19 25425, or 25436 shall be found to mandate a specific supply
20 plan for any utility as prohibited by Section 25437.

21 25450. The board shall establish a monitoring system
22 to ensure that any facility certified under this division is
23 constructed and is operating in compliance with air and
24 water quality, public health and safety, and other
25 applicable regulations, guidelines, and conditions
26 adopted or established by the board or specified in the
27 written decision on the application. In designing and
28 operating the monitoring system, the board shall seek the
29 cooperation and assistance of the State Air Resources
30 Board, the State Water Resources Control Board, the
31 State Department of Health Services, and other state,
32 regional, and local agencies which have an interest in
33 environmental control.

34 25451. (a) The board may, after hearings, amend the
35 conditions of, or revoke the certification for, any facility
36 for any of the following reasons:

37 (1) Any material false statement set forth in the
38 application, presented in proceedings of the board, or
39 included in supplemental documentation provided by
40 the applicant.

1 (2) Any significant failure to comply with the terms or
2 conditions of approval of the application, as specified by
3 the board in its written decision.

4 (3) A violation of this division or any regulation or
5 order issued by the board or the department under this
6 division.

7 (b) The board may also administratively impose a civil
8 penalty for a violation of paragraph (1) or (2) of
9 subdivision (a). Any civil penalty shall be imposed in
10 accordance with Section 25452 and may not exceed fifty
11 thousand dollars (\$50,000) per violation, except that the
12 civil penalty may be increased by an amount not
13 exceeding one thousand dollars (\$1,000) per day for each
14 day in which the violation occurs or persists, but the total
15 of the per day penalties shall not exceed twenty-five
16 thousand dollars (\$25,000).

17 25452. (a) The department may issue a complaint to
18 any person or entity on whom an administrative civil
19 penalty may be imposed pursuant to Section 25451. The
20 complaint shall allege the act or failure to act for which
21 the civil penalty is proposed, the provision of law
22 authorizing civil liability, and the proposed civil penalty.

23 (b) The complaint shall be served by personal notice
24 or certified mail, and shall inform the party so served that
25 a hearing will be conducted within 60 days from the date
26 that the party has been served. The hearing shall be
27 before the board. The complainant may waive the right
28 to a hearing, in which case the board shall not conduct a
29 hearing.

30 (c) After any hearing, the board may adopt, with or
31 without revision, the proposed decision and order of the
32 department.

33 (d) Orders setting an administrative civil penalty shall
34 become effective and final upon issuance thereof, and
35 any payment shall be made within 30 days. Copies of these
36 orders shall be served by personal service or by registered
37 mail upon the party served with the complaint and upon
38 other persons who appeared at the hearing and requested
39 a copy.

1 (e) In determining the amount of the administrative
2 civil penalty, the board shall take into consideration the
3 nature, circumstance, extent, and gravity of the violation
4 or violations, whether the violation is susceptible to
5 removal or resolution, the cost to the state in pursuing the
6 enforcement action, and with respect to the violator, the
7 ability to pay, the effect on ability to continue in business,
8 any voluntary removal or resolution efforts undertaken,
9 any prior history of violations, the degree of culpability,
10 economic savings, if any, resulting from the violation, and
11 such other matters as justice may require.

12 25453. (a) Within 30 days from the date of service of
13 an order issued under Section 25452, any aggrieved party
14 may file with the superior court a petition for writ of
15 mandate for review thereof pursuant to Section 1094.5 of
16 the Code of Civil Procedure. If no aggrieved party
17 petition for a writ of mandate is filed within the time
18 provided by this section, an order of the board is not
19 subject to review by any court or agency, except that the
20 board may grant review on its own motion of an order
21 issued under Section 25452 after the expiration of the time
22 limits set by this section.

23 (b) Upon request of the board, the Attorney General
24 shall institute an action in the appropriate superior court
25 to collect and recover any administrative civil penalties
26 imposed pursuant to Section 25452. The court shall accord
27 priority on its calendar to any action under this
28 subdivision.

29 (c) Any money recovered by the board pursuant to
30 this section shall be deposited in the General Fund.

31 25454. Any reasonable and direct costs that the
32 applicant incurs to comply with this chapter shall be
33 allowed for ratemaking purposes.

34 25455. Upon approval of an application, the board
35 shall forward to the United States Nuclear Regulatory
36 Commission, the Environmental Protection Agency, and
37 to other appropriate federal agencies, the results of its
38 studies including the environmental impact report on the
39 facility, the written decision on the facility contained in

1 the application, and the board's determination of facility
2 safety and reliability as provided in Section 25417.

3 25456. Upon receiving the board's request for review
4 under Section 25410 and subdivision (f) of Section 25432,
5 the local agency may request a fee from the board to
6 reimburse the local agency for the actual and added costs
7 of this review by the local agency. The board shall
8 reimburse the local agency for the added costs that shall
9 be actually incurred by the local agency in complying
10 with the board's request. The local agency may also
11 request reimbursement for permit fees that the local
12 agency would receive but for the operation of Section
13 25400, provided, however, that those fees may only be
14 requested in accordance with actual services performed
15 by the local agency. The board shall either request a fee
16 from the person proposing the project or devote a special
17 fund in its budget, for the reimbursement of the costs
18 incurred by local agencies.

19 25457. In reviewing notices and applications for
20 certification of modifications of existing facilities, the
21 board shall adopt rules and regulations as necessary to
22 insure that relevant duties pursuant to this division are
23 carried out.

24 25458. If a person proposes to construct a geothermal
25 powerplant and related facility or facilities on a site, the
26 board shall not require three alternative sites and related
27 facilities to be proposed in the notice. Except as otherwise
28 provided, the board shall issue its findings on the notice,
29 as specified in Section 25421, within nine months from the
30 date of filing of the notice, and shall issue its final decision
31 on the application, as specified in Section 25437, within
32 nine months from the date of the filing of the application
33 for certification, or at such later time as is mutually agreed
34 to by the board and the applicant or person submitting
35 the notice or application.

36 25459. The board shall determine, within 30 days from
37 the date of receipt of a notice or application for a
38 geothermal powerplant, whether the notice or
39 application is complete. If the notice or application is
40 determined not to be complete, the board's



1 determination shall specify, in writing, those parts of the
2 notice or application which are incomplete and shall
3 indicate the manner in which the notice or application
4 can be made complete. Within 30 days from the date of
5 receipt of the applicant's filing with the board of the
6 additional information requested by the board to make
7 the notice or application complete, the board shall
8 determine whether the subsequent filing is sufficient to
9 complete the notice or application. A notice or
10 application shall be deemed filed for purposes of Section
11 25458 on the date that the board determines that the
12 notice or application is complete, if the board has adopted
13 regulations specifying the informational requirements
14 for a complete notice or application, but if the board has
15 not adopted those regulations, the notice or application
16 shall be deemed filed on the last date that the board
17 receives any additional data that completes the notice or
18 application.

19 25460. Notwithstanding any other provision of law:

20 (a) If an applicant proposes to construct a geothermal
21 powerplant at a site which, at the outset of the
22 proceeding, the applicant can reasonably demonstrate to
23 be capable of providing geothermal resources in
24 commercial quantities, no notice of intention pursuant to
25 Section 25404 shall be required, and the board shall issue
26 the final decision on the application, as specified in
27 Section 25437, within 12 months from the date of
28 acceptance of the application for certification of a
29 geothermal powerplant and related facilities, or at such
30 later time as is mutually agreed by the board and the
31 applicant.

32 (b) Upon receipt of an application for certification of
33 a geothermal powerplant and related facilities, the board
34 shall transmit a copy of the application to every state and
35 local agency having jurisdiction over land use in the area
36 involved.

37 25461. (a) An applicant for a geothermal powerplant
38 may propose a site to be approved that will accommodate
39 a potential maximum electric generating capacity in
40 excess of the capacity being proposed for initial

1 construction. In addition to the information concerning
2 the initial powerplant and related facilities proposed for
3 construction required pursuant to Section 25433, the
4 application shall include all of the following, to the extent
5 known:

6 (1) The number, type, and energy source of electric
7 generating units which the site is proposed ultimately to
8 accommodate and the maximum generating capacity for
9 each unit.

10 (2) The projected installation schedule for each unit.

11 (3) The impact of the site, when fully developed, on
12 the environment and public health and safety.

13 (4) The amount and sources of cooling water needed
14 at the fully developed site.

15 (5) The general location and design of auxiliary
16 facilities planned for each stage of development,
17 including, but not limited to pipelines, transmission lines,
18 waste storage and disposal facilities, switchyards, and
19 cooling ponds, lakes, or towers.

20 (6) Such other information relating to the design,
21 operation, and siting of the facility as the board may by
22 regulation require.

23 (b) (1) If an application is filed pursuant to
24 subdivision (a) which proposes a site to be approved
25 which will accommodate a potential maximum electric
26 generating capacity in excess of the capacity being
27 proposed for initial construction, the board may, in its
28 decision pursuant to subdivision (a), either certify only
29 the initial facility or facilities proposed for initial
30 construction or may certify the initial facility or facilities
31 and find that the site is acceptable for additional
32 generating capacity of the type tentatively proposed. The
33 maximum allowable amount and type of that additional
34 capacity shall be determined by the board.

35 (2) If the decision includes a finding that a particular
36 site is suitable to accommodate a particular additional
37 generating capacity, the site shall be designated a
38 potential multiple facility site. The board may, in
39 determining the acceptability of a potential multiple
40 facility site, specify conditions or criteria necessary to



1 ensure that future additional facilities will not exceed the
2 limitations of the site.

3 25462. Notwithstanding any other provision of law:

4 (a) The decision of the board on an application for an
5 additional facility at a potential multiple facility site shall
6 be issued within three months from the date of the
7 acceptance of the application or at such later time as is
8 mutually agreed upon by the board and the applicant.

9 (b) In reviewing an application for an additional
10 facility at a potential multiple facility site, the board may,
11 upon a showing of good cause, undertake a
12 reconsideration of its prior determinations in the final
13 report for the site pursuant to Section 25421 or its decision
14 pursuant to Section 25437 based on current conditions
15 and other reasonable alternatives to the proposed facility.
16 That reconsideration shall be completed within seven
17 months from the date of acceptance of that application
18 for an additional facility.

19 (c) The board shall, pursuant to Section 21100.2,
20 provide by resolution or order for completing and
21 certifying the environmental impact report within the
22 time limits established by subdivisions (a) and (b).

23 25463. The board may, at the petition of a county
24 which has adopted a geothermal element for its general
25 plan, approve an equivalent certification program which
26 delegates to that county full authority for the certification
27 of all geothermal powerplants within the county. Once
28 approved by the board, the equivalent certification
29 program shall replace and supersede the procedures for
30 certification of all geothermal powerplants and related
31 facilities, pursuant to Sections 25458 to 25462, inclusive, to
32 be located within the county. The board may, after public
33 hearings, revoke the approved equivalent certification
34 program of the county if the board finds that the program
35 does not comply with current board certification
36 requirements. The equivalent certification program shall
37 include, but not be limited to, provisions for all of the
38 following:

39 (a) Certification of geothermal areas as potential
40 multiple facility sites, if so applied for.

1 (b) Processing of applications in less than 12 months.

2 (c) Periodic review and updating of the program by
3 the county as may be required by law and the board.

4 (d) Appeal procedures, including appeals to the board
5 on substantive issues. In any such appeal on a substantive
6 issue, the board shall determine whether the act or
7 decision is supported by substantial evidence in the light
8 of the whole record. The board shall determine, within 15
9 days from the date of receipt of an appeal, whether the
10 appeal has merit and whether action should be taken.

11 (e) Input and review by other relevant public
12 agencies and members of the public.

13 (f) Public hearing procedures equivalent to those
14 specified in Article 6 (commencing with Section 65350)
15 of Chapter 3 of Title 7 of the Government Code.

16 25464. (a) Notwithstanding any other provision of
17 law, no notice of intention is required, and the board shall
18 issue its final decision on the application, as specified in
19 Section 25437, within 12 months from the date of the filing
20 of the application for certification of the powerplant and
21 related facility or facilities, or at any later time as is
22 mutually agreed by the board and the applicant, for any
23 of the following:

24 (1) A thermal powerplant which will employ
25 cogeneration technology, a thermal powerplant which is
26 the result of a competitive solicitation or negotiation for
27 new generation resources and will employ natural
28 gas-fired technology, or a solar thermal powerplant.

29 (2) A modification of an existing facility.

30 (3) A thermal powerplant which it is only
31 technologically or economically feasible to site at or near
32 the energy source.

33 (4) A thermal powerplant with a generating capacity
34 of up to 100 megawatts.

35 (5) A thermal powerplant designed to develop or
36 demonstrate technologies which have not previously
37 been built or operated on a commercial scale. Such a
38 research, development, or commercial demonstration
39 project may include, but is not limited to, the use of
40 renewable or alternative fuels, improvements in energy

1 conversion efficiency, or the use of advanced pollution
2 control systems. Such a facility may not exceed 300
3 megawatts unless the board, by regulation, authorizes a
4 greater capacity. Section 25439 does not apply to such a
5 powerplant and related facility or facilities.

6 (b) Projects exempted from the notice of intention
7 requirement pursuant to paragraph (1), (4), or (5) of
8 subdivision (a) shall include, in the application for
9 certification, a discussion of the applicant's site selection
10 criteria, any alternative sites that the applicant
11 considered for the project, and the reasons why the
12 applicant chose the proposed site. That discussion shall
13 not be required for cogeneration projects at existing
14 industrial sites. The board may also accept an application
15 for a noncogeneration project at an existing industrial site
16 without requiring a discussion of site alternatives if the
17 board finds that the project has a strong relationship to
18 the existing industrial site and that it is therefore
19 reasonable not to analyze alternative sites for the project.

20 25465. The board may exempt from this chapter
21 thermal powerplants with a generating capacity of up to
22 100 megawatts and modifications to existing generating
23 facilities which do not add capacity in excess of 100
24 megawatts, if the board finds both of the following:

25 (a) No substantial adverse impact on the environment
26 or energy resources will result from the construction or
27 operation of the proposed facility or from the
28 modifications.

29 (b) Generating capacity will not be added which is
30 substantially in excess of the integrated assessment of
31 need for new resource additions determined pursuant to
32 subdivisions (a) to (f), inclusive, of Section 25130 and
33 adopted pursuant to Section 25134 which would be
34 applicable to the project pursuant to subdivision (f) of
35 Section 25523.

36 25466. (a) It is the intent of the Legislature to
37 encourage the development of thermal powerplants
38 using resource recovery (waste-to-energy) technology.

39 (b) The Legislature hereby finds and declares that
40 previously enacted incentives for the production of

1 electrical energy from nonfossil fuels in commercially
2 scaled projects have failed to produce the desired results.
3 At the same time, the state faces a growing problem in the
4 environmentally safe disposal of its solid waste. The
5 creation of electricity by a thermal powerplant using
6 resource recovery technology addresses both problems
7 by doing all of the following:

8 (1) Generating electricity from a nonfossil fuel of an
9 ample, growing supply.

10 (2) Conserving landfill space, thus reducing waste
11 disposal costs.

12 (3) Avoiding the health hazards of burying garbage.

13 (c) The Legislature further finds and declares that the
14 development of resource recovery facilities creates new
15 construction jobs, as well as ongoing operating jobs, in the
16 communities in which they are located.

17 25467. The former State Energy Resources
18 Conservation and Development Commission was
19 required, not later than January 31, 1979, to adopt
20 regulations pursuant to this chapter which comply with
21 all the requirements of this chapter and Section 21080.5,
22 and to submit a regulatory program to the Secretary of
23 the Resources Agency for certification pursuant to
24 Section 21080.5. Upon that certification and from time to
25 time, the board shall amend the regulatory program, as
26 necessary to permit the Secretary of the Resources
27 Agency to continue to certify the program.

28 25468. In the case of any site and related facility or
29 facilities to which this division does not apply, the
30 exclusive power given to the board pursuant to Section
31 25400 to certify sites and related facilities shall not be in
32 effect.

33

34 CHAPTER 13. RESEARCH AND DEVELOPMENT

35

36 25500. As used in this chapter, the following terms
37 have the following meaning:

38 (a) "Passive thermal system" means a system which
39 utilizes the structural elements of a building and is not
40 augmented by mechanical components to provide for



1 collection, storage, and distribution of solar energy or
2 coolness.

3 (b) “Semipassive thermal system” means a system
4 which utilizes the structural elements of a building and is
5 augmented by mechanical components to provide for
6 collection, storage, and distribution of solar energy or
7 coolness.

8 (c) “Solar device” means the equipment associated
9 with the collection, transfer, distribution, storage, and
10 control of solar energy.

11 (d) “Solar system” means the integrated use of solar
12 devices for the functions of collection, transfer, storage,
13 and distribution of solar energy.

14 (e) “Standard” means a specification of design,
15 performance, and procedure, or of the instrumentation,
16 equipment, surrounding conditions, and skills required
17 during the conduct of a procedure.

18 25501. The department shall develop and coordinate
19 a program of research and development in energy
20 supply, consumption, and conservation and the
21 technology of siting facilities and shall give priority to
22 those forms of research and development which are of
23 particular importance to the state, including, but not
24 limited to, all of the following:

25 (a) Methods of energy conservation specified in
26 Chapter 7 (commencing with Section 25200).

27 (b) Increased energy use efficiencies of existing
28 thermal electric and hydroelectric powerplants and
29 increased energy efficiencies in designs of thermal
30 electric and hydroelectric powerplants.

31 (c) Expansion and accelerated development of
32 alternative sources of energy, including geothermal and
33 solar resources, including, but not limited to,
34 participation in large-scale demonstrations of alternative
35 energy systems sited in California in cooperation with
36 federal agencies, regional compacts, other state
37 governments, and other participants. For purposes of this
38 subdivision, “participation” shall be defined as any of the
39 following: (1) direct interest in a project, (2) research
40 and development to insure acceptable resolution of

1 environment and other impacts of alternative energy
2 systems, (3) research and development to improve siting
3 and permitting methodology for alternative energy
4 systems, (4) experiments utilizing the alternative
5 energy systems, and (5) research and development of
6 appropriate methods to insure the widespread utilization
7 of economically useful alternative energy systems.
8 Large-scale demonstrations of alternative energy systems
9 are exemplified by the 100KW_e to 100MW_e range
10 demonstrations of solar, wind, and geothermal systems
11 contemplated by federal agencies, regional compacts,
12 other state governments, and other participants.

13 (d) Improved methods of construction, design, and
14 operation of facilities to protect against seismic hazards.

15 (e) Improved methods of energy-demand forecasting.

16 (f) To accomplish the purposes of subdivision (c), an
17 amount not more than one-half of the total state funds
18 appropriated for the solar energy research and
19 development program as proposed in the budget
20 prepared pursuant to Section 25505 shall be allocated for
21 large-scale demonstration of alternative energy systems.

22 25502. (a) The department shall carry out technical
23 assessment studies on all forms of energy and
24 energy-related problems, to influence federal research
25 and development priorities and to be informed on future
26 energy options and their impacts, including, in addition
27 to those problems specified in Section 25501, but not
28 limited to, the following:

29 (1) Advanced nuclear powerplant concepts, fusion,
30 and fuel cells.

31 (2) Total energy concepts.

32 (3) New technology related to coastal and offshore
33 siting of facilities.

34 (4) Expanded use of wastewater as cooling water and
35 other advances in powerplant cooling.

36 (5) Improved methods of power transmission to
37 permit interstate and interregional transfer and
38 exchange of bulk electric power.

39 (6) Measures to reduce wasteful and inefficient uses of
40 energy.



1 (7) Shifts in transportation modes and changes in
2 transportation technology in relation to implications for
3 energy consumption.

4 (8) Methods of recycling, extraction, processing,
5 fabricating, handling, or disposing of materials, especially
6 materials which require large commitments of energy.

7 (9) Expanded recycling of materials and its effect on
8 energy consumption.

9 (10) Implications of government subsidies and
10 taxation and ratesetting policies.

11 (11) Utilization of waste heat.

12 (12) Use of hydrogen as an energy form.

13 (13) Use of agricultural products, municipal wastes,
14 and organic refuse as an energy source.

15 (b) The assessments may also be conducted to
16 determine which energy systems among competing
17 technologies are most compatible with standards
18 established pursuant to this division.

19 25503. For research purposes, the department shall,
20 in cooperation with other state agencies, participate in
21 the design, construction, and operation of
22 energy-conserving buildings using data developed
23 pursuant to Section 25201, in order to demonstrate the
24 economic and technical feasibility of such designs.

25 25504. (a) (1) Pursuant to the duties of the
26 department described in subdivision (a) of Section 25201
27 and Section 25503, the department shall conduct a
28 statewide architectural design competition to select
29 outstanding designs for new single-family and
30 multifamily residential units which incorporate passive
31 solar and other energy-conserving design features.

32 (2) The purpose of the competition, to be known as the
33 “State Solar Medallion Passive Design Competition”, is to
34 demonstrate the technical and economic feasibility of
35 passive solar design for residential construction, to speed
36 its commercialization, and to promote its use by
37 developers in housing for moderate-income families in
38 the state. The competition shall be carried out with the
39 assistance and cooperation of the Office of the State
40 Architect.

(b) The competition shall be conducted for each of the state's six regional climate zones. Each climate zone shall have the following four categories of competition:

(1) Single-family dwellings. The construction costs of these dwellings shall not exceed thirty-five thousand dollars (\$35,000) and the market price, inclusive of land, construction, permits, fees, overhead and profit shall not exceed fifty-five thousand dollars (\$55,000); provided that, if the department determines that, as of the date construction is completed, the cost of housing construction in this state has increased due to economic inflation since January 1, 1979, the department may increase these sums by the amount of such inflation as indicated by the construction cost index.

(2) Single-family dwellings. The construction costs of these dwellings shall not exceed fifty-five thousand dollars (\$55,000) and the market price, inclusive of land, construction, permits, fees, overhead and profit shall not exceed eighty-five thousand dollars (\$85,000); provided that, if the department determines that, as of the date construction is completed, the cost of housing construction in this state has increased due to economic inflation since January 1, 1979, the department may increase these sums by the amount of such inflation as indicated by the construction cost index.

(3) Multifamily housing units with a market price or rental value comparable to paragraph (1).

(4) Multifamily housing units with a market price or rental value comparable to paragraph (2).

(c) To qualify for the competition, entrants shall be a team composed of at least one member from each of the following categories:

(1) A building designer or architect.

(2) A builder, developer, or contractor.

(d) With submission of designs to the competition, all entrants shall agree to comply with either paragraph (1), (2), or (3), if awarded the Solar Medallion or the first place prize in any category, as follows:

(1) To build five models of the winning design for single-family home categories if the builder, developer,

1 or contractor member of the winning team constructed
2 more than 30 single-family detached units during the
3 one-year period ending on the date of the award.

4 (2) To build three models of the winning design for
5 single-family home categories if the builder, developer,
6 or contractor member of the winning team constructed
7 30 or fewer single-family detached units during the
8 one-year period ending on the date of the award.

9 (3) To build one model of the winning design for all
10 multifamily categories.

11 (e) With the submission of designs to the competition,
12 all entrants shall agree to comply with all of the following,
13 if awarded the Solar Medallion or the first place prize in
14 any category:

15 (1) To commence construction within 18 months of
16 the announcement of awards.

17 (2) To permit the commission to install monitoring
18 equipment for measuring energy conservation
19 performance of the structure on all models constructed
20 in compliance with paragraph (1), (2), or (3) of
21 subdivision (d).

22 (3) To permit the commission to document, exhibit,
23 and publicize the constructed designs.

24 (f) All models of winning designs shall be built on the
25 site or sites described in the submission or on an alternate
26 site or sites with comparable features.

27 (g) Cash awards to authors of the winning designs may
28 be made prior to commencement of the agreed upon
29 construction.

30 (h) All winning designs in the competition shall
31 become the property of the state and may be published
32 and exhibited by the state after completion of
33 competition.

34 (i) The judging panel for the competition shall consist
35 of the following five jurors:

36 (1) One representative of the Office of the State
37 Architect.

38 (2) One representative of the department.

39 (3) One certificated architect.

1 (4) One representative of the state's lending
2 institutions.

3 (5) One developer, builder, or contractor.

4 (j) The nonagency members shall be appointed by the
5 State Architect.

6 (k) In recognition of the wide variation in
7 construction costs statewide, and in order to ensure fair
8 and equitable competition in all areas of the state, a cost
9 index shall be used to determine different construction
10 cost and market price requirements for each category of
11 competition in the major metropolitan areas of the state.
12 The construction cost and market price figures specified
13 in paragraphs (1) and (2) of subdivision (b) shall be used
14 as the upper limit values on which the index shall be
15 based. Construction cost and market price figures
16 reflecting the diversity in costs in different areas of the
17 state shall be determined in relation to upper limit values
18 specified in this section.

19 (l) The cost index shall be prepared by the Office of
20 the State Architect and shall be published in the
21 competition program.

22 (m) The evaluation shall take place in two stages, with
23 an initial technical review by the department staff. The
24 staff shall submit to the judging panel a rigorous technical
25 assessment of the anticipated energy conservation
26 performance of all submissions. Final selection shall be
27 made by the judging panel.

28 (n) Designs submitted to the competition shall be
29 judged on the extent to which they satisfy the following
30 criteria:

31 (1) Use of passive solar and other energy conserving
32 design features.

33 (2) Amount of energy savings achieved by the design.

34 (3) Adaptability of the design to widespread use.

35 (o) The department shall be responsible for
36 developing rules and procedures for the conduct of the
37 competition and for the judging, which rules shall ensure
38 anonymity of designs submitted prior to final awarding of
39 prizes, shall ensure impartiality of the judging panel, and
40 shall ensure uniform treatment of competitors.



(p) In administering the competition, the department shall accomplish the following tasks:

(1) Preparation of a competition program, including climatological data for each of the six regional climate zones.

(2) Distribution of competition information and ongoing publicity.

(3) Development of rules and procedures for competitors and judges.

(4) Preparation of a summary document for the competition, including a portfolio of winning designs and followup publicity.

(5) Instrumentation of winning dwellings constructed in accordance with this section.

(q) For purposes of administering the competition, the department shall contract with the Office of the State Architect for materials and services that cannot be performed by its staff.

(r) Cash awards to authors of the winning designs shall be made on the following basis:

(s) Using the criteria in subdivision (f), the judging panel shall select, as follows:

(1) The most outstanding design statewide selected from among the first place winners in either of two single-family categories in any of the six climate zones, which shall receive the State Solar Medallion Award and five thousand dollars (\$5,000) in addition to the cash award specified in paragraph (3).

(2) The most outstanding design statewide selected from among the first place winners in either of the two multifamily categories in any of the six climate zones, which shall receive the State Solar Medallion Award and five thousand dollars (\$5,000) in addition to the cash award specified in paragraph (3).

(3) The first place designs in each of the four competition categories within each of the six climate zones, which shall each receive a cash award of five thousand dollars (\$5,000).

(4) The second place designs in each of the four competition categories within each of the six climate

1 zones, which shall each receive a cash award of two
2 thousand dollars (\$2,000).

3 25505. Commencing June 1, 1986, and every two years
4 thereafter, the department shall prepare and submit to
5 the Governor and the Legislature a report describing
6 energy development trends in this state, evaluating the
7 status of both new and existing energy technologies, and
8 specifying those most relevant to the state's needs and
9 opportunities. The report shall identify barriers to further
10 energy resource development, including siting and
11 environmental problems, and provide policy
12 recommendations including research, development, and
13 demonstration needed to overcome these barriers to
14 development. The report shall also include both of the
15 following:

16 (a) The department's determination, after generic
17 proceedings, of the commercial availability of
18 technologies for the generation of electrical energy or
19 capacity, and a list of the issues which may affect the
20 ability to employ these technologies at a proposed site.

21 (b) The department's determination, after generic
22 proceedings, of nongeneration technologies which are
23 available or are reasonably expected to become available
24 for use to reduce demand determined pursuant to
25 subdivision (e) of Section 25130, and the issues which may
26 affect the ability to employ these technologies to reduce
27 demands.

28 25506. On or before November 1, 1978, the former
29 State Energy Resources Conservation and Development
30 Commission was required to develop and adopt, in
31 cooperation with affected industry and consumer
32 representatives, and after one or more public hearings,
33 regulations governing solar devices. The regulations
34 were required to be designed to encourage the
35 development and use of solar energy and to provide
36 maximum information to the public concerning solar
37 devices. The regulations may include, but need not be
38 limited to, any or all of the following:

39 (a) Standards for testing, inspection, certification,
40 sizing, and installation of solar devices.

(b) Provisions for the enforcement of the standards. Those provisions may include any or all of the following:

(1) Procedures for the accreditation by the department of laboratories to test and certify solar devices.

(2) Requirements for onsite inspection of solar devices, including specifying methods for inspection, to determine compliance or noncompliance with the standards.

(3) Requirements for submission to the department of any data resulting from the testing and inspection of solar devices.

(4) Prohibitions on the sale of solar devices which do not meet minimum requirements for safety and durability as established by the department.

(5) Dissemination of the results of the testing, inspection, and certification program to the public.

(c) In adopting the regulations, the former commission was required to give due consideration to their effect on the cost of purchasing, installing, operating, and maintaining solar devices.

(d) The department shall reassess the regulations as often as the department determines it to be necessary, based upon the value of the regulations in terms of benefits and disadvantages to the widespread adoption of solar energy systems and the need to encourage creativity and innovative adaptations of solar energy. The department may amend or repeal the regulations based on that reassessment.

(e) Under no circumstances may the department preclude any person from developing, installing, or operating a solar device on his or her own property.

(f) Any violation of any regulation adopted pursuant to this section may be enjoined in the same manner as is prescribed in Chapter 22 (commencing with Section 25675) for enjoining a violation of this division.

25507. Standards adopted by the department pursuant to Section 25506, which are building standards as defined in Section 25377, shall be submitted to the State Building Standards Commission for approval pursuant to,

1 and are governed by, the State Building Standards Law
2 (Part 2.5 (commencing with Section 18901) of Division 13
3 of the Health and Safety Code). Building standards
4 adopted by the department and published in the State
5 Building Standards Code shall comply with, and be
6 enforced as provided in, Section 25506.

7 25508. The department shall confer with officials of
8 federal agencies, including the National Aeronautics and
9 Space Administration, the National Institute of Standards
10 and Technology, the Department of Energy, and the
11 Department of Housing and Urban Development, to
12 coordinate the adoption or revision of regulations
13 pursuant to Sections 25503 and 25506.

14 25509. The department may, in adopting or revising
15 regulations pursuant to this chapter, specify the date
16 when the regulations shall take effect. The department
17 may specify different dates for different regulations.

18 25510. The effective dates of building standards
19 adopted by the department pursuant to Section 25509 are
20 subject to approval pursuant to the provisions of the State
21 Building Standards Law (Part 2.5 (commencing with
22 Section 18901) of Division 13 of the Health and Safety
23 Code).

24 25511. For purposes of carrying out this chapter, the
25 department may contract with any person for materials
26 and services that cannot be performed by its staff or other
27 state agencies, and may apply for federal grants or any
28 other funding.

29 25512. (a) The Legislature hereby finds and declares
30 that, during the last 50 years, inexpensive fossil fuels and
31 electricity have created significant technological changes
32 in the production of agricultural products. Fossil fuels
33 have been substituted for labor, animal power, wind
34 energy, and solar energy technology in food and feed
35 production and in the processing of California's
36 agricultural commodities. Although the availability of
37 inexpensive energy has fostered an intensive system of
38 agriculture with higher crop yields and excellent
39 productivity, our reliance on cheap energy has made the



1 producers of agricultural products vulnerable to supply
2 interruptions and skyrocketing price escalations.

3 (b) The Legislature further finds that the agricultural
4 industry and consumers are faced with a challenge to
5 maintain and even enhance the productivity of California
6 agriculture through the development of renewable
7 energy resources.

8 (c) The Legislature further finds that enhanced
9 energy efficiency and conservation and development of
10 renewable resource energy technologies are needed to
11 replace and conserve fossil fuels and electricity in the
12 production and processing of agricultural products. To
13 develop that potential, a state program for assisting the
14 development of solar technology in agriculture is
15 necessary.

16 (d) The program, managed by the Department of
17 Food and Agriculture in cooperation with the
18 department, shall include, but not be limited to, all of the
19 following:

20 (1) An assessment of potential solar energy projects in
21 California agriculture.

22 (2) Cooperation with the University of California in its
23 ongoing extension program to provide information to
24 ranchers, farmers, and food processors on the benefits of
25 renewable resource technologies to agricultural
26 processes and on the availability of financial incentives
27 such as loans and tax credits. The department may
28 contract with the university or other educational
29 institutions or agricultural organizations for those
30 information outreach services.

31 (3) Establishment of an energy conservation,
32 renewable resource, and solar energy technologies
33 assistance program in agriculture utilizing the resources
34 and joint efforts of persons engaged in agriculture, food
35 processors, cooperatives, and manufacturers and
36 installers of solar and other energy conservation and
37 renewable resource energy technologies, the university
38 and colleges, and the government to demonstrate the
39 effectiveness and economic viability of energy
40 conservation and renewable resource energy

1 technologies in agriculture. The assistance program shall
2 include state financial incentives to encourage the rapid
3 and widespread deployment of diverse energy
4 conservation and renewable resource energy
5 technologies in agriculture and food processing. State
6 financial incentives may include, but shall not be limited
7 to, state loans, loan guarantees, and leases and
8 participating agreements for individuals, businesses, and
9 public agencies for the purpose of stimulating the
10 development and use of energy conservation and
11 renewable resource energy technologies in agriculture.
12 Energy conservation, solar applications, and renewable
13 resource energy technologies eligible to receive state
14 financial assistance shall include, but not be limited to, all
15 of the following:

16 (A) Solar energy for space and water heating and
17 cooling and for process heat.

18 (B) Wind energy for pumping and electrical
19 generation of less than 100 kilowatts installed capacity.

20 (C) Geothermal energy for direct heating and cooling
21 applications.

22 (D) Installation of hydroelectric generators of less
23 than 100 kilowatts installed capacity on existing water
24 storage and conveyance facilities, such as dams, pipelines,
25 and canals, associated with agricultural water use.

26 (E) Energy conservation technologies and associated
27 equipment which have promising application and life
28 cycle cost effectiveness in the agricultural sector. Those
29 technologies shall include, but not be limited to:

30 (i) Technologies that reduce heating, cooling, and
31 refrigeration energy use.

32 (ii) Technologies that conserve water if their
33 application will reduce energy use in water pumping.

34 (iii) Installation of more efficient electric motors for
35 pumping, refrigeration, and other agricultural uses.

36 (e) The Department of Food and Agriculture, in
37 cooperation with the department and the University of
38 California, shall assist applicants in attempting to obtain
39 all possible supplementary and complimentary assistance



1 from other publicly or privately funded sources prior to
2 authorizing any state assistance.

3 (f) The Department of Food and Agriculture shall
4 establish a technical review committee for the purpose of
5 evaluating applications for financial assistance under this
6 chapter. The Department of Food and Agriculture shall
7 make awards of state financial assistance according to the
8 decisions of the technical review committee. The
9 members of the technical review committee shall consist
10 of the following:

11 (1) One representative of the Department of Food
12 and Agriculture appointed by the Director of Food and
13 Agriculture.

14 (2) One representative of the department appointed
15 by the chairperson of the department.

16 (3) One representative of an agricultural organization
17 appointed by the Director of Food and Agriculture.

18 (4) One representative of the University of California
19 appointed by the president of the university.

20 (5) One public member with background and
21 experience in agriculture appointed by the Director of
22 Food and Agriculture.

23 (g) The Department of Food and Agriculture, after
24 consultation with the technical review committee, shall
25 establish criteria for the approval of applications for state
26 financial assistance under this chapter. That criteria shall
27 include, but not be limited to, all of the following:

28 (1) Criteria requiring projects approved for financial
29 assistance to be cost effective and establishing a method
30 of determination of cost effectiveness.

31 (2) Criteria providing reasonable assurance of an
32 applicant's ability to repay loans financed or guaranteed.

33 (3) Criteria concerning the terms and conditions of
34 loans. The interest rate on loans made pursuant to this
35 chapter shall not be less than 6 percent per year.

36 (4) Criteria establishing a maximum percentage of
37 state-provided financial assistance for any project. In no
38 case shall state financial assistance provide more than 90
39 percent of the total project cost.

1 (5) Criteria which will ensure that numerous
2 conservation and renewable resource technologies are
3 included in the program, and that concentration on one
4 or two technologies is avoided.

5 (6) Criteria for the approval of equipment financed
6 under the program. That criteria may include
7 requirements for equipment and installation warranties.

8 (7) Requirements that cost effective energy
9 conservation measures be implemented in conjunction
10 with renewable resource technologies.

11 (h) (1) The Renewable Resource Energy
12 Agricultural Account is hereby created in the General
13 Fund. The money in the account shall be available for
14 allocation by the Department of Food and Agriculture for
15 the purposes of this section without regard to fiscal year
16 upon appropriation by the Legislature. All money repaid
17 pursuant to this chapter shall be deposited in the account
18 and shall thereupon become available for allocation for
19 the purposes of this section upon appropriation by the
20 Legislature.

21 (2) Funds expended in any calendar year by the
22 Department of Food and Agriculture from the account
23 for the purpose of administering this chapter shall not
24 exceed 5 percent of the total amount of financial
25 assistance provided to applicants in that year.

26 25513. (a) It is the intent of the Legislature to
27 encourage local agencies to expeditiously review permit
28 applications to site energy projects, and to encourage
29 energy project developers to consider all cost-effective
30 and environmentally superior alternatives that achieve
31 their project objectives.

32 (b) Subject to the availability of funds appropriated
33 therefor, the department shall provide technical
34 assistance and grants-in-aid to assist local agencies to do
35 either or both of the following:

36 (1) Site energy production or transmission projects
37 which are not otherwise subject to Chapter 12
38 (commencing with Section 25400).



1 (2) Integrate into their planning processes, and
2 incorporate into their general plans, methods to achieve
3 cost-effective energy efficiency.

4 (c) The department shall provide assistance at the
5 request of local agencies and shall coordinate that
6 assistance with the assistance provided by the Office of
7 Permit Assistance, created pursuant to Section 15399.50
8 of the Government Code.

9 (d) As used in this section, an energy project is any
10 project designed to produce, convert, or transmit energy
11 as one of its primary functions.

12 25514. (a) It is the intent of the Legislature to
13 preserve diversity of energy resources, including
14 diversity of resources used in electric generation
15 facilities, industrial and commercial applications, and
16 transportation.

17 (b) The department shall, within the limits of
18 available funds, provide technical assistance and support
19 for the development of petroleum diesel fuels which are
20 as clean or cleaner than alternative clean fuels and clean
21 diesel engines. That technical assistance and support may
22 include the creation of research, development, and
23 demonstration programs.

24 25515. (a) The department shall facilitate
25 development and commercialization of ultra low- and
26 zero-emission electric vehicles and advanced battery
27 technologies, as well as development of an infrastructure
28 to support maintenance and fueling of those vehicles in
29 California. Facilitating commercialization of ultra low-
30 and zero-emission electric vehicles in California shall
31 include, but not be limited to, the following:

32 (1) The department may, in cooperation with county,
33 regional, and city governments, the state's public and
34 private utilities, and the private business sector, develop
35 plans for accelerating the introduction and use of ultra
36 low- and zero-emission electric vehicles throughout
37 California's air quality nonattainment areas, and for
38 accelerating the development and implementation of the
39 necessary infrastructure to support the planned use of
40 those vehicles in California. These plans shall be



1 consistent with, but not limited to, the criteria for similar
2 efforts contained in federal loan, grant, or matching fund
3 projects.

4 (2) In coordination with other state agencies, the
5 department shall seek to maximize the state's use of
6 federal programs, loans, and matching funds available to
7 states for ultra low- and zero-emission electric vehicle
8 development and demonstration programs, and
9 infrastructure development projects.

10 (b) Priority for implementing demonstration projects
11 under this section shall be directed toward those areas of
12 the state currently in a nonattainment status with federal
13 and state air quality regulations.

14

15 CHAPTER 14. CLEAN FUELS ACCOUNT

16

17 25525. The hereby Legislature finds and declares all
18 of the following:

19 (a) Air pollution in California remains a significant
20 threat to public health and the environment and urban
21 areas are in need of special efforts to reduce harmful
22 emissions.

23 (b) Recent studies have found that increasing levels of
24 particulates and other pollutants from diesel engines are
25 a major contributor to visibility and other air pollution
26 problems, including acid deposition.

27 (c) Despite efforts to regulate emissions from
28 heavy-duty diesel engines, harmful pollutants from those
29 vehicles have proven difficult to control with current
30 technology, and as a consequence, the implementation of
31 more stringent emission standards may result in adverse
32 effects on performance and fuel economy.

33 (d) State and federal researchers have determined
34 that methanol fuel has demonstrated the potential for
35 significant air quality improvements beyond the levels
36 which can be achieved by conventional gasoline and
37 diesel engines, and that methanol fuel can be produced
38 from a variety of abundant domestic energy sources,
39 including natural gas, coal, and biomass.



1 (e) Reducing dependence on imported petroleum
2 and increasing the security of transportation fuel supplies
3 are important elements of the state's energy policy.

4 (f) Because of the potential environmental and
5 energy security benefits of expanded methanol fuel use,
6 along with the prospect of increased competitiveness of
7 the fuels market, it is consistent with the goal of
8 restitution to energy consumers for the Legislature to
9 appropriate a portion of the state's allocation of
10 petroleum violation escrow funds for methanol
11 demonstration programs and to provide financial
12 incentives to private industry and local governments to
13 expand methanol fuel use.

14 25526. (a) The department, in conjunction with the
15 State Air Resources Board, shall carry out a program of
16 technology development and financial assistance to
17 expand the use of methanol fuel as a means of reducing
18 air pollution, assuring the state's energy security, and
19 increasing the competitiveness of fuel markets. The
20 program shall include all of the following:

21 (1) A project demonstrating the technological and
22 economic feasibility and environmental impacts of
23 utilizing methanol fuel in heavy-duty diesel engines of
24 500 horsepower or less, as used by the state's trucking
25 industry.

26 (2) A project demonstrating the technological and
27 economic feasibility and environmental impacts of
28 utilizing methanol fuel in heavy-duty diesel engines of
29 1000 horsepower or more, as used by railroad locomotives
30 and marine vessels.

31 (3) Technical and financial assistance for public and
32 private transit operators for the acquisition and operation
33 of new and retrofitted methanol-powered transit buses.

34 (4) Technical and financial assistance for vehicle fleet
35 operations of state and local agencies, and private
36 rideshare programs, to underwrite the differential costs
37 of the purchase of flexible fuel vehicles and the
38 establishment of necessary fueling facilities. For purposes
39 of this subdivision, "flexible fuel vehicles" means vehicles

1 which can operate on either alcohol fuels or premium
2 unleaded gasoline, or a combination thereof.

3 (b) The program undertaken pursuant to this chapter
4 shall be conducted with the maximum feasible financial
5 and technical participation of private industry and other
6 government agencies in order to ensure that the risks and
7 benefits of the program are shared with industry and
8 other levels of government.

9 25527. The Clean Fuels Account is hereby created as
10 a separate account in the General Fund.

11 25528. The seven million five hundred thousand
12 dollars (\$7,500,000) appropriated from the Clean Fuels
13 Account pursuant to Chapter 1340 of the Statutes of 1986
14 shall be allocated for purposes of carrying out the
15 program specified in Section 25526 as follows:

16 (a) Two million dollars (\$2,000,000) for technology
17 demonstration programs for methanol-powered
18 heavy-duty diesel engines under paragraphs (1) and (2)
19 of subdivision (a) of Section 25526.

20 (b) Three million dollars (\$3,000,000) for financial
21 assistance to public and private transit operators for the
22 acquisition and operation of methanol-powered transit
23 buses under paragraph (3) of subdivision (a) of Section
24 25526.

25 (c) Two million five hundred thousand dollars
26 (\$2,500,000) for financial assistance to state and local
27 agencies, and private rideshare programs, for the
28 purchase of flexible fuel vehicles for fleet operations
29 under paragraph (4) of subdivision (a) of Section 25526.

30

31 CHAPTER 15. SMALL BUSINESS ENERGY TECHNOLOGY

32 LOAN PROGRAM

33

34 25530. (a) The department shall establish a small
35 business energy assistance low-interest revolving loan
36 program to fund the purchase of equipment for
37 alternative technology energy projects for California's
38 small businesses.

39 (b) The loan program may use royalty agreements, as
40 provided in Chapter 16 (commencing with Section



1 25545), to replenish program funds beyond the amount of
2 loan repayment. Loan repayments, interest, and royalties
3 shall be deposited in the Energy Technologies Research,
4 Development, and Demonstration Account in the
5 General Fund, created pursuant to Section 25583. The
6 interest rate shall be determined as provided in
7 subdivision (g) of Section 25547.

8
9 CHAPTER 16. ENERGY RESEARCH, DEVELOPMENT,
10 DEMONSTRATION, AND COMMERCIALIZATION PROGRAMS
11

12 25545. This chapter shall be known, and may be cited,
13 as the Energy Research, Development, Demonstration,
14 and Commercialization Act of 1993.

15 25546. The Legislature hereby finds and declares all
16 of the following:

17 (a) The state's growing population creates an
18 increasing need to strengthen its infrastructure to
19 achieve adequate economically and environmentally
20 acceptable energy services systems.

21 (b) The condition of the state's economy makes it
22 necessary to stretch the effective use of funds provided by
23 state and federal government for energy research,
24 development, demonstration, and commercialization
25 projects by substituting loans for contract funding where
26 possible, by requiring at least 50 percent cofunding of
27 contract and grant-funded projects, and by requiring
28 repayment of contract and grant funds when the
29 cofunded work has become financially rewarding for the
30 recipient.

31 (c) The placement of provisions relating to the
32 administration of energy research, development,
33 demonstration, and commercialization projects not
34 otherwise provided for by statute in one comprehensive
35 chapter enhances the ability of the department to use the
36 funds available for those projects with the greatest
37 effectiveness, administrative efficiency, and likelihood of
38 repayment.

39 (d) California's continued leadership in new energy
40 technology research, development, and demonstration

1 projects is a business and employment asset to the state,
2 and is encouraged through effective partnership
3 between the public and private sectors. New energy
4 technologies have inherent financial and technical risks
5 which limit necessary and important progress without
6 state involvement.

7 (e) Energy sources and efficiency devices can be
8 developed and offered on the market which provide
9 energy services at lower competitive cost to the energy
10 user, increase energy independence and reliability, make
11 sustainable use of California's indigenous resources,
12 provide a healthier environment, and rebuild the state's
13 economy through employment opportunities in new
14 technology businesses.

15 (f) Loans are an efficient use of funds, allowing the
16 state to recoup the loan funds, thus promoting continuity
17 of the state's commitment to energy research,
18 development, demonstration, and commercialization
19 programs.

20 (g) Research contracts and grants to small businesses,
21 with repayment features, allows the state to recoup and
22 replenish funds from financially successful energy
23 projects and inventions, thus providing for the recycling
24 of funds for energy technology advancement.

25 (h) Grants and loans provide small businesses with
26 access to energy research, development, demonstration,
27 and commercialization cofunding, while providing the
28 state with a mechanism to cofund and administer small
29 business projects with efficiency.

30 25547. As used in this chapter, the following terms
31 have the following meaning:

32 (a) "Alternative source of energy" includes, but is not
33 limited to, geothermal power, hydroelectric power equal
34 to or less than 5 megawatts, photovoltaics, wind, biomass,
35 cogeneration, solar thermal energy, fuel cells, alternative
36 fuels, electric vehicles, low-emission vehicles, advanced
37 energy storage, and energy efficiency and conservation
38 measures.

39 (b) (1) "Award repayment or program
40 reimbursement agreement," including a "royalty

1 agreement,” as specified in paragraph (1) of subdivision
2 (c), means a method used at the discretion of the
3 department to determine and establish the terms of
4 replenishment of program funds, including, at a
5 minimum, repayment of the award to provide for further
6 awards under this chapter. The award repayment or
7 program reimbursement agreement may provide that
8 payments be made to the department when the award
9 recipient, affiliate of the award recipient, or third party
10 receives, through any kind of transaction, an economic
11 benefit from the project, invention, or product
12 developed, made possible, or derived, in whole or in part,
13 as a result of the award.

14 (2) An award repayment or program reimbursement
15 agreement shall specify the method to be used by the
16 department to determine and establish the terms of
17 repayment and reimbursement of the award.

18 (3) The department may require due diligence of the
19 award recipient and may take any action that is necessary
20 to bring the project, invention, or product to market.

21 (4) Subject to the confidentiality requirements of
22 Section 2505 of Title 20 of the California Code of
23 Regulations, the department may require access to
24 financial, sales, and production information, and to other
25 agreements involving transactions of the award
26 recipient, affiliates of the award recipient, and third
27 parties, as necessary, to ascertain the royalties or other
28 payments due the department.

29 (c) (1) A “royalty agreement” is an award repayment
30 or program reimbursement agreement and is subject to
31 all of the following conditions:

32 (A) The royalty rate shall be determined by the
33 department and shall not exceed 5 percent of the gross
34 revenue derived from the project, invention, or product.

35 (B) The royalty agreement shall specify the method to
36 be used by the department to determine and establish the
37 terms of payment of the royalty rate.

38 (C) The department shall determine the duration of
39 the royalty agreement and may negotiate a collection
40 schedule.

1 (D) The department, for separate consideration, may
2 negotiate and receive payments to provide for an early
3 termination of the royalty agreement.

4 (2) (A) The department may require that the
5 intellectual property developed, made possible, or
6 derived, in whole or in part, as a result of the award
7 repayment or program reimbursement agreement,
8 revert to the state upon a default in the terms of the award
9 repayment or program reimbursement agreement or
10 royalty agreement.

11 (B) The department may require advance notice of
12 any transaction involving intellectual property rights.

13 (d) “Loan” means the contractual financing of a
14 qualifying project under a program in which all of the
15 following occur:

16 (1) The recipient of the loan repays the loan amount,
17 plus accrued interest.

18 (2) The loan applicant is required to demonstrate the
19 financial capability to repay the loan regardless of the
20 commercial success of the project.

21 (3) The loan is required to be secured by appropriate
22 collateral regardless of the commercial success of the
23 project.

24 (4) Loans are generally provided to those projects
25 using energy technologies that are relatively close to full
26 commercialization, include demonstration or
27 commercialization of the technologies, and have a high
28 probability of generating revenue or other economic
29 benefit sufficient to repay the loan and the accrued
30 interest within 10 years from the performance
31 determination date of the contract. A royalty agreement
32 may be used to replenish program funds beyond the
33 amount of the loan repayment.

34 (e) “Research contract” means a contractual award
35 made to a qualifying project under a program in which all
36 of the following occur:

37 (1) The award includes an award repayment or
38 program reimbursement agreement.

39 (2) The award repayment or program reimbursement
40 agreement specifies the method to be used by the



1 department in determining and establishing the terms of
2 repayment and reimbursement of the award.

3 (3) Research contracts are provided for those projects
4 that have a moderate to low probability of generating
5 revenue or other economic benefit within 15 years from
6 the performance determination date of the contract.

7 (f) “Grant” means a grant award made to a small
8 business certified by the Office of Small and Minority
9 Business of the Department of General Services, or which
10 meets the requirements of Part 121.601 of Title 13 of the
11 Code of Federal Regulations, to cofund a qualifying
12 project under a program in which all of the following
13 occur:

14 (1) The award includes an award repayment or
15 program reimbursement agreement.

16 (2) The award repayment or program reimbursement
17 agreement specifies the method to be used by the
18 department in determining and establishing the terms of
19 repayment and reimbursement.

20 (g) “Accrued interest” means the cumulative interest
21 on the outstanding balance of a loan, research contract,
22 or grant. The department shall specify in the terms of the
23 award the manner in which the department will compute
24 the interest. Notwithstanding any other provision of law,
25 the department shall, unless it determines that the
26 purposes of this chapter would be better served by
27 establishing an alternative interest rate schedule,
28 periodically set interest rates on the loans, research
29 contracts, and grants based on surveys of existing
30 financial markets and at rates not lower than the Pooled
31 Money Investment Account. Interest shall begin accruing
32 upon the date of first drawdown of funds.

33 (h) “Performance determination date” means the
34 date at which the department renders a written decision
35 on the success of the project in meeting the goals and
36 objectives established in the loan, research contract, or
37 grant.

38 25548. (a) The department shall make loans, and
39 research contract and grant awards, for purposes of
40 making existing energy technologies more efficient,

1 cost-effective, and environmentally acceptable, and to
2 research, develop, demonstrate, and commercialize new,
3 cost-effective alternative sources of energy, technologies
4 which displace conventional fuels, and energy efficiency
5 and conservation devices.

6 (b) In selecting projects, the department shall
7 consider, but is not limited to, the list of opportunity
8 technologies developed in the most current energy
9 development report produced pursuant to Section 25505,
10 or a subset of those opportunity technologies.

11 (c) The department shall select the projects through
12 competitive bid procedures, such as invitations for bids,
13 requests for proposals, program opportunity notices, and
14 multistep bids using preapplications, by demonstrating
15 the need for sole source awards, or by evaluating small
16 business grant and loan applications.

17 (d) The criteria for the selection of projects shall
18 include, but not be limited to, all of the following factors:

19 (1) The potential of the project to reduce energy
20 consumption or provide an alternative source of energy.

21 (2) The financial, technical, and management
22 strength of the project applicant.

23 (3) The near-term and long-term feasibility of the
24 project.

25 (4) The ability of the project technology to be used
26 throughout California.

27 (5) The potential of the project for promoting diverse,
28 secure, and resilient energy supplies.

29 (6) The potential of the project to displace petroleum.

30 (7) The potential of the project for reducing adverse
31 environmental impacts.

32 (8) The potential of the project to stimulate economic
33 development, employment, and tax revenues for
34 California.

35 (9) The potential of the project for reducing
36 short-term and long-term energy costs for the ratepayers
37 of California.

38 (10) The need of the project for state financing.

39 (11) The ability of the project to attract private and
40 other public investment.

1 (12) The investment payback period for the project.

2 (13) The probability of success in overcoming the risk
3 of the project.

4 (14) The potential for stimulating small business
5 competition in the field of alternative energy
6 development.

7 (15) The ability of the project to generate needed
8 community economic development for participating
9 local jurisdictions.

10 (16) The extent of the applicant's financial
11 participation.

12 (17) The degree of innovation of the project.

13 (18) Whether the project is, in general, consistent with
14 the energy policies of California regarding the energy
15 technologies and priorities as set forth in the biennial
16 report of the department.

17 (19) The cost of the project.

18 (e) The department shall apply the criteria specified
19 in subdivision (d) consistently within each competitive
20 bid solicitation.

21 (f) Loans, research contracts, and grants entered into
22 pursuant to this section are not subject to Article 4
23 (commencing with Section 10335) or Article 5
24 (commencing with Section 10355) of Chapter 2 of Part 2
25 of Division 2 of the Public Contract Code.

26 25549. In selecting projects and types of technologies
27 for funding, the department shall actively solicit
28 recommendations from interested parties, including, but
29 not limited to, representatives of private industry, small
30 businesses, research organizations, public utilities,
31 independent energy producers, local governments, and
32 the federal government.

33 25550. (a) Any loan that is made shall not be greater
34 than 80 percent of the total project cost. The department
35 may provide a loan which exceeds that limit if it
36 determines that a major state contribution is essential to
37 ensure project success.

38 (b) The department's contribution to any research
39 contract or grant funding shall not be greater than 50
40 percent of the total project cost.

1 25556. The department shall apply this chapter to
2 research, development, demonstration, and
3 commercialization projects that are not subject to
4 Chapter 6 (commencing with Section 3800) of Division
5 3 and Chapter 18 (commencing with Section 25580) of
6 this division.

7 25557. The department shall include a summary of
8 projects financed under this chapter in its biennial report,
9 or one of the subsidiary documents to the biennial report.

10 25558. This chapter shall remain in effect only until
11 January 1, 2005, and as of that date is repealed, unless a
12 later enacted statute, which is enacted before January 1,
13 2005, deletes or extends that date.

14

15 CHAPTER 17. CLEAN FUELS ACT

16

17 25575. The department shall establish a grant
18 program which provides a forty cent (\$0.40) per gallon
19 production incentive for liquid fuels fermented in this
20 state from biomass and biomass-derived resources
21 produced in this state. Eligible liquid fuels include, but
22 are not limited to, ethanol, methanol, and vegetable oils.
23 Eligible biomass resources include, but are not limited to,
24 agricultural products and byproducts, forestry products
25 and byproducts, and industrial wastes. The department
26 shall adopt rules and regulations necessary to implement
27 the program. Prior to determining an applicant eligible
28 for participation in the production incentive program,
29 the department shall find, among other things, that the
30 production techniques employed will lead to a net
31 increase in the amount of energy available for
32 consumption.

33 25576. Applicants for a grant under this chapter shall
34 submit an application on a form prescribed by the
35 department which is responsible for administration of the
36 program.

37



CHAPTER 18. ENERGY TECHNOLOGIES RESEARCH,
DEVELOPMENT, AND DEMONSTRATION

25580. This chapter shall be known, and may be cited,
as the Rosenthal-Naylor Act of 1984.

25581. The Legislature hereby finds and declares all
of the following:

(a) Additional energy supplies will be needed in the
near future, to serve an increasing number of citizens.

(b) Energy sources should be developed which
provide power at the lowest competitive cost to the
ratepayer, which increase energy independence and
system reliability through use of California's indigenous
resources, which provide environmental benefits, and
which build the state's economy.

(c) California's continued leadership in new energy
technology research, development, and demonstration
projects requires an active partnership between the
public and private sectors, as well as flexible public
financing tools which are responsive to changing
technological events and commercialization
impediments.

(d) The use of California's indigenous energy
resources and alternative energy technologies can be
made more efficient and cost-effective through increased
research, development, and demonstration and can
contribute to stabilizing and potentially reducing
near-term energy costs for industry, agriculture, local
governments, and individual citizens.

(e) Renewable energy sources can help lower the cost
of energy if research, development, and demonstration
efforts emphasize shortrun and longrun cost
effectiveness.

(f) Advanced energy technologies have inherent
financial and technical risks which limit necessary and
important research, development, and demonstration in
those areas without state involvement.

(g) State government can accelerate widespread
market acceptance of new energy technologies by
providing assistance to a limited number of projects with

1 the intent of overcoming impediments, demonstrating
2 technologies, and offering successful models for the
3 private sectors to duplicate on its own.

4 (h) Increasing the efficiency and cost-effectiveness of
5 existing and new energy sources will provide benefits to
6 California citizens beyond energy costs. It will contribute
7 to reduction of the state's dependence on foreign energy
8 sources, stimulate the state economy, make our energy
9 system more resilient and reliable, and continue to
10 provide a healthier environment for our citizens.

11 (i) Loans offer an efficient, effective means of
12 providing an economic incentive with distinct limits to
13 stimulate energy project development for a broader
14 range of market (end-use) applications, since the funds
15 can be used more than once.

16 (j) Loans present a more efficient use of funds,
17 allowing the state to achieve more from the original
18 budget allocation, and to meet goals and objectives
19 established in long-term energy policies approved in each
20 fiscal year budget.

21 (k) Loans offer the state a mechanism to benefit from
22 cofunding an energy project that encounters initial high
23 capital costs followed by considerable net revenues use
24 once the project is in operation.

25 (l) Loans strengthen the continuity of the state
26 government's commitment from year to year and
27 maintain the ability to share the costs of project
28 development.

29 25582. For purposes of this chapter, the following
30 terms have the following meanings:

31 (a) "Account" means the Energy Technologies
32 Research, Development, and Demonstration Account in
33 the General Fund, created pursuant to Section 25583.

34 (b) "Alternative sources of energy" includes, but is not
35 limited to, geothermal, hydroelectric power equal to or
36 less than 5 megawatts, photovoltaics, wind, biomass,
37 cogeneration, solar thermal, fuel cells, and energy
38 efficiency measures.

39 (c) (1) "Award repayment or program
40 reimbursement agreement," including a "royalty

1 agreement,” as specified in paragraph (1) of subdivision
2 (d), means a method used at the discretion of the
3 department determine and establish the terms of
4 replenishment of program funds, including, at a
5 minimum, repayment of the award to provide for further
6 awards under this chapter. The award repayment or
7 program reimbursement agreement may provide that
8 payments be made to the department when the award
9 recipient, affiliate of the award recipient, or third party
10 receives, through any kind of transaction, an economic
11 benefit from the project, invention, or product
12 developed, made possible, or derived, in whole or in part,
13 as a result of the award.

14 (2) An award repayment or program reimbursement
15 agreement shall specify the method to be used by the
16 department to determine and establish the terms of
17 repayment and reimbursement of the award.

18 (3) The department may require due diligence of the
19 award recipient and may take any action that is necessary
20 to bring the project, invention, or product to market.

21 (4) Subject to the confidentiality requirements of
22 Section 2505 of Title 20 of the California Code of
23 Regulations, the department may require access to
24 financial, sales, and production information, and to other
25 agreements involving transactions of the award
26 recipient, affiliates of the award recipient, and third
27 parties, as necessary, to ascertain the royalties or other
28 payments due the department.

29 (d) (1) A “royalty agreement” is an award repayment
30 or program reimbursement agreement and is subject to
31 all of the following conditions:

32 (A) The royalty rate shall be determined by the
33 department and shall not exceed 5 percent of the gross
34 revenue derived from the project, invention, or product.

35 (B) The royalty agreement shall specify the method to
36 be used by the department to determine and establish the
37 terms of payment of the royalty rate.

38 (C) The department shall determine the duration of
39 the royalty agreement and may negotiate a collection
40 schedule.

(D) The department, for separate consideration, may negotiate and receive payments to provide for an early termination of the royalty agreement.

(2) (A) The department may require that the intellectual property developed, made possible, or derived, in whole or in part, as a result of the award repayment or program reimbursement agreement, revert to the state upon a default in the terms of the award repayment or program reimbursement agreement or royalty agreement.

(B) The department may require advance notice of any transaction involving intellectual property rights.

(e) “Loan” means the contractual financing of a qualifying project under the program, and in which the recipient of the loan repays the loan amount, plus accrued interest regardless of the commercial success of the project. Loans are generally to be provided to those projects that include energy technology systems that are relatively close to full commercialization, represent demonstrations of the technology, and have high probability of generating revenue or other economic benefit sufficient to repay the loan and the accrued interest within 10 years from the performance determination date of the contract. A royalty agreement may be used to replenish program funds beyond the amount of the loan repayment.

(f) (1) “Repayable research contract” means the contractual award made to a qualifying project under the program, and which is provided to those projects that are in the latter stages of technology development and have a moderate probability of generating revenue or other economic benefit within 15 years from the performance determination date of the contract.

(2) The repayable research contract shall include an award repayment or program reimbursement agreement.

(3) The repayable research contract shall specify the method to be used by the department in determining and establishing the terms of repayment and reimbursement of the award.

(g) (1) “Primary research contract” means the contractual award made to a qualifying project under the program, and which is provided to those projects that are in the early stages of technology development and have a low probability of generating revenue or other economic benefit within 15 years from the performance determination date of the contract.

(2) The primary research contract shall include an award repayment or program reimbursement agreement.

(3) The primary research contract shall specify the method to be used by the department in determining and establishing the terms of repayment and reimbursement of the award.

(h) “Performance determination date” means the date at which the department renders a written decision on the success of the project in meeting the goals and objectives established in the contract for the project.

25583. (a) The Energy Technologies Research, Development, and Demonstration Account is hereby created in the General Fund for the purpose of carrying out this chapter, to be administered by the department.

(b) The Controller shall deposit in the account all money appropriated to the account by the Legislature, plus accumulated interest on that money, and money from loan, research contract, and grant repayments and royalties, and loan, research contract, and grant interest repayments for use by the department for financing energy research, demonstration, development, and commercialization projects funded under this chapter, Chapter 15 (commencing with Section 25530), and Chapter 16 (commencing with Section 25545). Funds shall be identified in accordance with the programmatic source of the funds.

25584. (a) The department shall make loans and repayable research contracts, and may provide primary research contracts funding from the account for the purposes of making energy technologies more efficient and cost-effective, and to develop new cost-effective alternative sources of energy. The department shall

1 select recipients through a procedure using an invitation
2 for bids or a request for proposals. Each invitation for bids
3 and request for proposals shall specify the criteria to be
4 used in selecting projects for financing.

5 (b) The criteria shall include, but not be limited to, all
6 of the following factors:

7 (1) The potential of the project to reduce
8 consumption and increase the efficiency of
9 nonrenewable energy sources and systems.

10 (2) The financial, technical, and management
11 strength of the project applicant.

12 (3) The near-term and long-term feasibility of the
13 project.

14 (4) The ability of the project technology to be used on
15 other applications throughout California.

16 (5) The potential of the project for promoting diverse,
17 secure, and resilient energy supplies.

18 (6) The potential of the project for reducing adverse
19 environmental impacts.

20 (7) The potential of the project to stimulate economic
21 development, employment, and tax revenues for
22 California.

23 (8) The potential of the project for reducing
24 short-term and long-term energy costs for the ratepayers
25 of California.

26 (9) The need of the project for state financing.

27 (10) The ability of the project to garner private
28 investment.

29 (11) The investment payback period for the project.

30 (12) The probability of success in overcoming the risk
31 of the project.

32 (13) The potential for stimulating small business
33 competition in the field of alternative energy
34 development.

35 (14) The ability of the project to generate needed
36 community economic development for participating
37 local jurisdictions.

38 (15) The extent of the applicant's financial
39 participation.

40 (16) The degree of innovation of the project.



1 (17) Whether the project is in general agreement with
2 the energy policies of this state regarding the energy
3 technologies and priorities as set forth in the biennial
4 report of the department.

5 (c) Contracts entered into pursuant to this section are
6 not subject to Article 4 (commencing with Section 10335)
7 or Article 5 (commencing with Section 10355) of Chapter
8 2 of Part 2 of Division 2 of the Public Contract Code.

9 25585. The energy technology projects to be
10 considered for funding under this chapter shall include,
11 but are not limited to, all of the following:

12 (a) Low and medium temperature geothermal
13 systems.

14 (b) Advance cogeneration systems.

15 (c) Fuel cells.

16 (d) Coal combustion systems.

17 (e) Advanced oil or gas combustion systems.

18 (f) Methanol overfiring and coproduction.

19 (g) Transmission system efficiency and reliability.

20 (h) Photovoltaics.

21 (i) Biomass gasification system.

22 (j) Low and medium BTU gas technologies for electric
23 generation.

24 (k) Other alternative energy technologies.

25 25586. The department shall actively solicit
26 recommendations from interested parties, including, but
27 not limited to, representatives of private industry, small
28 businesses, research organizations, public utilities,
29 independent energy producers, local governments, and
30 the federal government in selecting the kinds of
31 technologies for funding.

32 25587. At the commencement of each fiscal year, at
33 least 70 percent of the money in the account shall be
34 made available for loans or repayable research contracts
35 for projects and the remainder shall be made available for
36 primary research contracts funding under this chapter
37 for that fiscal year. The department may make less than
38 70 percent of the money in the account at the
39 commencement of each fiscal year available for loans, or
40 repayable research contracts, if the department

1 determines that the public interest and objectives of this
2 chapter will be better served through increased primary
3 research contracts funding. In no instance, however, shall
4 the amount of funds available for loans or repayable
5 research contracts be less than 50 percent of the money
6 in the account at the commencement of each fiscal year.

7 25588. Any loan made from the account shall not be
8 greater than 80 percent of the total project cost. Any
9 repayable research contract or primary research
10 contracts funding shall not be greater than 50 percent of
11 the total project cost. The department may provide a loan
12 which exceeds that limit if the department determines
13 that a major state contribution is essential to ensure
14 project success.

15 25589. Notwithstanding any other provision of law,
16 the department shall, unless the department determines
17 that the purposes of this chapter would be better served
18 by establishing an alternative interest rate schedule,
19 periodically set interest rates on the loans based on
20 surveys of existing financial markets and at rates not
21 lower than the Pooled Money Investment Account. Loans
22 shall be repaid within 20 years from receipt of the funds,
23 as determined by the department.

24 25590. The department shall make at least 10 percent
25 of the funds in the account at the commencement of each
26 fiscal year available to local jurisdictions. The department
27 may make less than 10 percent of the funds available for
28 local jurisdictions, if the department determines that the
29 public interest and the objectives of this chapter will be
30 better served at a lower level.

31 25591. Not more than 25 percent of the funds in the
32 account at the commencement of each fiscal year shall be
33 available for any individual project. However, the
34 department may make more than 25 percent of the funds
35 available for an individual project, if it determines that
36 the public interest and the objectives of this chapter will
37 be better served at the higher level.

38 25592. No projects that are eligible for funding under
39 Chapter 6 (commencing with Section 3800) of Division
40 3 shall be eligible for funding under this chapter.



1 25593. The department shall include a summary of
2 projects financed under this chapter in its biennial report,
3 or one of the subsidiary documents to the biennial report.

4 25594. The department shall provide technical
5 assistance, review and quality control of projects funded
6 under this chapter. Beginning July 1, 1985, and each fiscal
7 year thereafter, funds for administering this chapter shall
8 be appropriated in the Budget Act from the account.

9 25595. (a) Notwithstanding any other provision of
10 law, the department shall deposit in the account any
11 repayments, including equipment sales, interest,
12 royalties, and loans, and contract funds appropriated to
13 the department for research, development,
14 demonstration, or commercialization of energy
15 technologies. However, if repayments from equipment
16 sales or contract funds were generated from a loan,
17 research contract, or grant account which is still in
18 existence, those repayments shall return to that specific
19 loan, research contract, or grant account.

20 (b) The account shall be a revolving account with
21 funds annually appropriated by the Legislature to the
22 department for disbursement over a three-year period.
23 Additional funds, if necessary to carry out the purposes of
24 this chapter, may be appropriated in the Budget Act.

25 25596. This chapter shall remain in effect only until
26 January 1, 2005, and as of that date is repealed, unless a
27 later enacted statute, which is enacted before January 1,
28 2005, deletes or extends that date.

29
30 CHAPTER 19. ENERGY TECHNOLOGY AND ENERGY
31 CONSERVATION
32

33 25600. In enacting this chapter, the Legislature
34 hereby finds and declares all of the following:

35 (a) The development and commercialization of
36 energy technologies and energy conservation is a vital
37 element in meeting the state's energy needs.

38 (b) The continuing vitality of California's energy
39 technology and energy conservation industry, as well as
40 the maintenance of California's technological leadership

1 in these energy systems, depends on the industry's ability
2 to expand into new markets, including those in other
3 countries. The expansion of California's energy
4 technology and energy conservation industry into foreign
5 markets will result in lower domestic prices, more stable
6 growth, increased employment opportunities, and
7 additional tax revenues.

8 (c) California's energy technology and energy
9 conservation industry's entry into export markets is being
10 inhibited by foreign-based competitors benefiting from
11 extensive financial and technical support from their
12 governments.

13 Furthermore, small-to-medium sized energy firms are
14 handicapped by high information costs and financial
15 constraints.

16 (d) California-based energy technology and energy
17 conservation firms seeking to expand into foreign
18 markets can be substantially assisted by state efforts to
19 disseminate international market data, foreign
20 government regulatory information, and other material,
21 and to provide technical assistance to facilitate export
22 efforts.

23 (e) It is in the best interest of the state to increase the
24 export of goods and services provided by California-based
25 energy technology and energy conservation firms,
26 particularly small- and medium-sized businesses, in a
27 manner which coordinates with and augments existing
28 private, state, and federal programs.

29 25601. (a) The department, in cooperation with the
30 California State World Trade Commission and the
31 California Department of Commerce, may assist
32 California-based energy technology and energy
33 conservation firms to export their technologies, products,
34 and services to international markets.

35 (b) The department may, in coordination with the
36 California State World Trade Commission, do all of the
37 following:

38 (1) Conduct a technical assistance program to help
39 California energy companies improve export
40 opportunities and enhance foreign buyers' awareness of



1 and access to energy technologies and services offered by
2 California-based companies. Technical assistance
3 activities may include, but are not limited to, an energy
4 technology export information clearinghouse, a referral
5 service, a trade lead service consulting services for
6 financing, market evaluation, and legal counseling, and
7 information seminars.

8 (2) Perform research studies and solicit technical
9 advice to identify international market opportunities.

10 (3) Assist California energy companies to evaluate
11 project or site-specific energy needs of international
12 markets.

13 (4) Assist California energy companies to identify and
14 address international trade barriers restricting energy
15 technology exports, including unfair trade practices and
16 discriminatory trade laws.

17 (5) Develop promotional materials in conjunction
18 with California energy companies to expand energy
19 technology exports.

20 (6) Establish technical exchange programs to increase
21 foreign buyers' awareness of suitable energy technology
22 uses.

23 (7) Prepare equipment performance information to
24 enhance potential export opportunities.

25 (8) Coordinate activities with state, federal, and
26 international donor agencies to take advantage of trade
27 promotion and financial assistance efforts offered.

28 25602. (a) Every California-based energy
29 technology and energy conservation firm awarded direct
30 financial assistance pursuant to Section 25601 shall
31 reimburse the department for that assistance, when both
32 of the following conditions have been met:

33 (1) The assistance was substantial and essential for the
34 completion of a specific identifiable project.

35 (2) The resulting project is producing revenues.

36 (b) All money appropriated for purposes of this
37 chapter and all money received by the department as
38 reimbursement under this section shall be deposited in
39 the Energy Resources Programs Account and shall be

1 available, when appropriated by the Legislature, for the
2 purposes of this chapter.

3 25603. The department shall consult with the
4 California State World Trade Commission with respect to
5 conducting overseas trade missions, trade shows, and
6 trade exhibits. Consultation may include interagency
7 agreements, cosponsorship, and memoranda of
8 understanding for joint overseas trade activities.

9 25604. The department shall include in its energy
10 development report prepared pursuant to Section 25505
11 a description of international energy market prospects
12 and an evaluation of its export promotion activities, as
13 well as an assessment of the state of the California energy
14 technology and energy conservation industry's efforts to
15 enter foreign markets. The energy development report
16 shall also include recommendations for state government
17 initiatives to foster the California energy technology and
18 energy conservation industry's competition in world
19 markets.

20

21 CHAPTER 20. ENERGY SHORTAGE CONTINGENCY
22 PLANNING
23

24 25625. As used in this chapter "former commission"
25 means the former State Energy Resources Conservation
26 and Development Commission which was the
27 predecessor of the department.

28 25626. The department shall, in accordance with this
29 chapter, develop contingency plans to deal with possible
30 shortages of electrical energy or fuel supplies to protect
31 public health, safety, and welfare.

32 25627. (a) On or before July 7, 1975, each electric
33 utility, gas utility, and fuel wholesaler or manufacturer in
34 this state was required to prepare and submit to the
35 commission a proposed emergency load curtailment plan
36 or emergency energy supply distribution plan setting
37 forth proposals for identifying priority loads or users in
38 the event of a sudden and serious shortage of fuels or
39 interruption in the generation of electricity.



1 (b) The former commission was required to
2 encourage electric utilities to cooperate in joint
3 preparation of an emergency load curtailment plan or
4 emergency energy distribution plan. If such a
5 cooperative plan was developed between two or more
6 electric utilities, the utilities were authorized to submit
7 the joint plans to the former commission in place of
8 individual plans required by subdivision (a).

9 (c) The former commission was required to collect
10 from all relevant governmental agencies, including, but
11 not limited to, the Public Utilities Commission and the
12 Office of Emergency Services, any existing contingency
13 plans for dealing with sudden energy shortages or
14 information related thereto.

15 25628. The former commission was required, after
16 one or more public hearings, to review the emergency
17 load curtailment program plans or emergency energy
18 supply distribution plans submitted pursuant to Section
19 25627, and, the commission was required to approve and
20 recommend to the Governor and the Legislature plans
21 for emergency load curtailment and energy supply
22 distribution in the event of a sudden energy shortage.
23 Those plans were required to be based upon the plans
24 presented by the electric utilities, gas utilities, and fuel
25 wholesalers or manufacturers, information provided by
26 other governmental agencies, independent analysis and
27 study by the former commission and information
28 provided at the hearing or hearings. Those plans were
29 required to provide for the provision of essential services,
30 the protection of public health, safety, and welfare, and
31 the maintenance of a sound basic state economy.
32 Provision was required to be made in those plans to
33 eliminate wasteful, uneconomic, and unnecessary uses of
34 energy in times of shortages and to differentiate
35 curtailment of energy consumption by users on the basis
36 of ability to accommodate such curtailments. The plans
37 also were required to specify the authority of, and
38 recommend the appropriate actions of, state and local
39 governmental agencies in dealing with energy shortages.

1 25629. Within four months after the date of
2 certification of any new facility, the department shall
3 review and revise the recommended plans based on
4 additional new capacity attributed to any such facility.
5 The department shall, after one or more public hearings,
6 review the plans at least every five years from the date of
7 the approval of the initial plan by the former commission
8 as specified in Section 25628.

9 25630. The department shall carry out studies to
10 determine if potential serious shortages of electrical,
11 natural gas, or other sources of energy are likely to occur
12 and shall make recommendations to the Governor and
13 the Legislature concerning administrative and legislative
14 actions required to avert possible energy supply
15 emergencies or serious fuel shortages, including, but not
16 limited to, energy conservation and energy development
17 measures, to grant authority to specific governmental
18 agencies or officers to take actions in the event of a
19 sudden energy shortage, and to clarify and coordinate
20 existing responsibilities for energy emergency actions.

21 25631. (a) If the department determines that all
22 reasonable conservation, allocation, and service
23 restriction measures may not alleviate an energy supply
24 emergency, and upon a declaration by the Governor or
25 by an act of the Legislature that a threat to public health,
26 safety, and welfare exists and requires immediate action,
27 the board shall authorize the construction and use of
28 generating facilities under such terms and conditions as
29 specified by the board to protect the public interest.

30 (b) Within 60 days from the date of the authorization
31 of construction and use of those generating facilities, the
32 department shall issue a report detailing the full nature,
33 extent, and estimated duration of the emergency
34 situation and making recommendations to the Governor
35 and the Legislature for further energy conservation and
36 energy supply measures to alleviate the emergency
37 situation as alternatives to use of the generating facilities.
38

1 CHAPTER 21. ENERGY RESOURCES PROGRAMS ACCOUNT

2
3 25650. The Energy Resources Programs Account is
4 hereby created in the General Fund.

5 25651. (a) Each person who submits to the board a
6 notice of intent for any proposed generating facility shall
7 accompany the notice with a fee of one cent (\$0.01) per
8 kilowatt of net electric capacity of the proposed
9 generation facility. The fee shall only be paid on one of
10 the alternate proposed facility sites which has the highest
11 electrical designed capacity. In no event shall the fee be
12 less than one thousand dollars (\$1,000) nor more than
13 twenty-five thousand dollars (\$25,000).

14 (b) For any other facility, the notice shall be
15 accompanied by a fee of five thousand dollars (\$5,000).
16 The fee shall only be paid on one of the alternate
17 proposed facility sites.

18 25652. All funds received by the board pursuant to
19 Section 25651, shall be remitted to the Treasurer for
20 deposit in the account. All funds in the account shall be
21 expended for purposes of carrying out this division, upon
22 appropriation by the Legislature in the Budget Act.

23 25653. Any reference in this division or any other
24 provision of law to the State Energy Resources
25 Conservation and Development Special Account shall be
26 deemed to be, and to mean the Energy Resources
27 Programs Account.

28
29 CHAPTER 22. ENFORCEMENT AND JUDICIAL REVIEW

30
31 25675. Except as provided in Section 25449, whenever
32 the department finds that any provision of this division is
33 violated or a violation is threatening to take place which
34 constitutes an emergency requiring immediate action to
35 protect the public health, welfare, or safety, the Attorney
36 General, upon request of the department, shall petition
37 a court to enjoin the violation. The court shall have
38 jurisdiction to grant the prohibitory or mandatory
39 injunctive relief as may be warranted by way of

1 temporary restraining order, preliminary injunction, and
2 permanent injunction.

3 25676. (a) Within 30 days from the date that the
4 department or board issues its determination on any
5 matter specified in this division, except as provided in
6 Section 25449, any aggrieved person may file with the
7 superior court a petition for a writ of mandate for review
8 thereof. Failure to file such an action does not preclude
9 a person from challenging the reasonableness and
10 validity of a decision in any judicial proceedings brought
11 to enforce the decision or to obtain other civil remedies.

12 (b) The decision of the department or board shall be
13 sustained by the court unless the court finds that (1) the
14 department or board proceeded without, or in excess of,
15 its jurisdiction, (2) based exclusively upon a review of the
16 record before the department or board, the decision is
17 not supported by substantial evidence in light of the
18 whole record, or (3) the department or board failed to
19 proceed in the manner required by law.

20 (c) Except as otherwise provided in this section,
21 subdivisions (f) and (g) of Section 1094.5 of the Code of
22 Civil Procedure govern proceedings pursuant to this
23 section.

24 (d) The amendment of this section made pursuant to
25 Chapter 101 of the Statutes of 1989 does not constitute a
26 change in, but is declaratory of, existing law.

27 25677. Any evaluations in the reports required by
28 Section 25136 and any findings and determinations on the
29 notice of intent pursuant to Chapter 12 (commencing
30 with Section 25400) shall not be construed as a final
31 evaluation, finding, or determination by the department
32 or board and a court action may not be brought to review
33 any such evaluation, finding, or determination.

34 25678. If any provision of subdivision (a) of Section
35 25449, with respect to judicial review of the decision on
36 certification of a site and related facility, is held invalid,
37 judicial review of those decisions shall be conducted in
38 the superior court subject to the conditions of subdivision
39 (b) of Section 25449. The superior court shall grant
40 priority in setting such matters for review, and the



1 appeals from any such review shall be given preference
2 in hearings in the Supreme Court and courts of appeal.

3
4 CHAPTER 23. INSULATION MATERIAL STANDARDS
5

6 25685. The former State Energy Resources
7 Conservation and Energy Commission was required, by
8 regulation, to establish, not later than July 1, 1978,
9 minimum standards for the amount of additional
10 insulation (expressed in terms of R-value) installed in
11 existing buildings. One year after the adoption of those
12 standards, no insulation shall be installed in any existing
13 building by a contractor unless the contractor certifies to
14 the customer in writing that the amount of insulation
15 (expressed in terms of R-value) meets or exceeds the
16 minimum amount established by the standards. The
17 minimum standards may vary for different types of
18 buildings or building occupancies and different climate
19 zones in the state. The minimum standards shall be
20 economically feasible in that the resultant savings in
21 energy procurement costs shall be greater than the cost
22 of the insulation to the customer amortized over the
23 useful life of the insulation.

24 25686. The department may adopt regulations
25 pertaining to urea formaldehyde foam insulation
26 materials as are reasonably necessary to protect the
27 public health and safety. These regulations may include,
28 but are not limited to, prohibition of the manufacture,
29 sale, or installation of urea formaldehyde foam insulation,
30 requirements for safety notices to consumers,
31 certification of installers, and specification of installation
32 practices. Regulations adopted pursuant to this section
33 shall be promulgated after public hearings in accordance
34 with Chapter 3.5 (commencing with Section 11340) of
35 Part 1 of Division 3 of Title 2 of the Government Code.
36 Any regulation adopted by the department to prohibit
37 the sale and installation of urea formaldehyde foam
38 insulation shall be based upon a record of scientific
39 evidence which demonstrates the need for the
40 prohibition to protect the public health and safety.

1 25687. Prior to adopting any regulation which causes
2 a prohibition on the sale and installation of urea
3 formaldehyde foam insulation, the department shall
4 consult with, and solicit written comments from, all of the
5 following:

6 (a) Federal and state agencies with appropriate
7 scientific staffs, including, but not limited to, the State
8 Department of Health Services, the National Academy of
9 Sciences, the United States Department of Housing and
10 Urban Development, the United States Department of
11 Energy, and the United States Consumer Product Safety
12 Commission.

13 (b) Universities and public and private scientific
14 organizations.

15
16 CHAPTER 24. ENERGY EFFICIENT MORTGAGES
17

18 25700. The Legislature hereby finds and declares all
19 of the following:

20 (a) The Energy Policy Act of 1992 (P.L. 102-486)
21 directs the federal government to establish an energy
22 efficient mortgage pilot program in five states to promote
23 the purchase of existing energy efficient residential
24 buildings and the installation of cost-effective
25 improvements in existing residential buildings. The
26 federal act also establishes a training program regarding
27 the benefits of energy efficient mortgages and the
28 operation of a pilot program, and authorizes the
29 appropriation of federal funds to carry out those pilot
30 programs and training programs.

31 (b) The high cost of housing is a critical problem in
32 California, as less than one-half of California households
33 can afford to buy a median-priced home.

34 (c) Reducing a home's monthly energy costs through
35 energy efficiency improvements can make the home
36 more affordable by increasing the homeowner's
37 disposable income, which allows the homeowner to
38 qualify for a higher mortgage and increases the number
39 of Californians that can afford to buy a home.

1 (d) More than 60 percent of California homes were
2 built before energy standards were adopted for new
3 homes in the mid-1970s. These older homes are
4 disproportionate energy consumers. The average home
5 built in 1968 consumes twice the energy of a home built
6 after 1983.

7 (e) A wide range of cost-effective energy efficiency
8 improvements can be made to homes, resulting in lower
9 energy use, lower utility energy bills, reduced societal
10 demand for new energy sources, and reduced
11 environmental degradation related to the generation of
12 energy.

13 (f) Energy efficient mortgages provide money to fund
14 energy efficiency improvements in residential homes,
15 resulting in lower energy costs to the homeowner.
16 Energy efficient mortgages also increase the number of
17 Californians, particularly of low- and moderate-income,
18 who can qualify for home financing, because the
19 incremental increase in monthly mortgage cost is more
20 than offset by lower monthly energy bills.

21 (g) Although energy efficient mortgages have been
22 available for a number of years, they are rarely used
23 because borrowers are unaware of their existence or of
24 the benefits that they can provide, and most lenders and
25 real estate licensees are unaware of, or unfamiliar with,
26 the energy efficient mortgage.

27 (h) The 1992–93 California Energy Plan, endorsed by
28 the Governor, recommends that the state support the
29 marketing of mortgages that account for energy
30 efficiency.

31 25701. The Legislature further finds and declares all
32 of the following:

33 (a) It is in the interest of the people of this state that
34 energy efficient mortgages be marketed and made
35 available statewide, to increase awareness of their
36 availability and their benefits.

37 (b) It is also in the interest of the state to seek to
38 participate in federal government programs in this area,
39 including energy efficient mortgage pilot and related

1 training programs, and to seek federal funding to
2 promote the use of energy efficient mortgages.

3 25702. The department shall develop and implement
4 a pilot program to determine how best to inform
5 homeowners and potential homeowners of the
6 availability, methods, and benefits of obtaining an energy
7 efficient mortgage.

8 25703. The pilot program shall be designed to do all of
9 the following:

10 (a) Meet the eligibility requirements of the energy
11 efficient mortgage pilot program and training program
12 established by the federal government pursuant to the
13 Energy Policy Act of 1992 (P.L. 102-486) if this state is
14 chosen to participate in the federal government's pilot
15 program.

16 (b) Familiarize mortgage lenders, real estate
17 licensees, home appraisers, home inspectors, energy
18 utilities, energy service providers, and other participants
19 with the features of the energy efficient mortgage and
20 the benefits that can result from its use.

21 (c) Identify and implement effective methods of
22 informing the public of the availability and benefits of the
23 energy efficient mortgage.

24 (d) Develop methods of incorporating the use of the
25 energy efficient mortgage into the regular business
26 practices of mortgage lenders, real estate licensees, home
27 appraisers, home inspectors, and other persons involved
28 in the sale, refinancing, and remodeling of residential real
29 estate.

30 (e) Encourage the use of a home energy rating
31 analysis as a precondition to qualification for an energy
32 efficient mortgage.

33 (f) Identify obstacles to the use of energy efficient
34 mortgages and recommend ways to mitigate or eliminate
35 the obstacles.

36 25704. (a) The department shall convene one or
37 more workshops with mortgage lenders, real estate
38 licensees, home appraisers, home inspectors, energy
39 utilities, energy service providers, and other appropriate
40 parties to solicit recommendations on the



1 implementation of the pilot program. The department
2 shall encourage those parties to participate in the pilot
3 program.

4 (b) The department shall consult, as needed, with the
5 State Banking Department, the Department of Savings
6 and Loan, the Department of Real Estate, and the
7 Department of Housing and Community Development
8 in carrying out this chapter.

9 25705. The department shall report to the Governor
10 and the Legislature upon the completion of the pilot
11 program. Copies of the report shall also be sent to the
12 appropriate policy committees of the Legislature,
13 including the housing committees of the Senate and the
14 Assembly. The report shall include all of the following:

15 (a) Results of the pilot program, including, but not
16 limited to, the number of energy efficient mortgages used
17 and the number of people who qualified for home
18 financing as a result of using an energy efficient
19 mortgage.

20 (b) Obstacles to the use of energy efficient mortgages.

21 (c) Recommendations on how to improve the use and
22 effectiveness of energy efficient mortgages.

23

24 CHAPTER 25. HOME ENERGY AND LABELING PROGRAM

25

26 25725. As used in this chapter, “former commission”
27 means the former State Energy Conservation and
28 Development Commission.

29 25726. (a) On or before July 1, 1995, the commission
30 was required to establish criteria for adopting a statewide
31 home energy rating program for residential dwellings.
32 The program criteria was required to include, but were
33 not limited to, all of the following elements:

34 (1) Consistent, accurate, and uniform ratings based on
35 a single statewide rating scale.

36 (2) Reasonable estimates of potential utility bill
37 savings, and reliable recommendations on cost-effective
38 measures to improve energy efficiency.

1 (3) Training and certification procedures for home
2 raters and quality assurance procedures to promote
3 accurate ratings and to protect consumers.

4 (4) In coordination with home energy rating service
5 organization data bases, procedures to establish a
6 centralized, publicly accessible, data base that includes a
7 uniform reporting system for information on residential
8 dwellings, excluding proprietary information, needed to
9 facilitate the program. There shall be no public access to
10 information in the data base concerning specific
11 dwellings without the owner's or occupant's permission.

12 (5) Labeling procedures that will meet the needs of
13 home buyers, homeowners, renters, the real estate
14 industry, and mortgage lenders with an interest in home
15 energy ratings.

16 (b) The former commission was required to adopt the
17 program pursuant to subdivision (a) in consultation with
18 representatives of the Department of Real Estate, the
19 Department of Housing and Community Development,
20 the Public Utilities Commission, investor-owned and
21 municipal utilities, cities and counties, real estate
22 licensees, home builders, mortgage lenders, home
23 appraisers and inspectors, home energy rating
24 organizations, contractors who provide home energy
25 services, consumer groups, and environmental groups.

26 (c) On and after January 1, 1996, no home energy
27 rating services may be performed in this state unless the
28 services have been certified, if such a certification
29 program is available, by the department to be in
30 compliance with the program criteria specified in
31 subdivision (a) and, in addition, are in conformity with
32 any other applicable element of the program.

33 (d) On or before July 1, 1996, the department shall
34 consult with the agencies and organizations described in
35 subdivision (b), to facilitate a public information
36 program to inform homeowners, rental property owners,
37 renters, sellers, and others of the existence of the
38 statewide home energy rating program adopted by the
39 department.

(e) Beginning with the 1998 biennial energy conservation report required by Section 25202, the department shall, as part of that biennial report, report on the progress made to implement a statewide home energy rating program. The report shall include an evaluation of the energy savings attributable to the program, and a recommendation concerning which means and methods will be most efficient and cost-effective to induce home energy ratings for residential dwellings.

CHAPTER 26. GAS APPLIANCES

Article 1. Definitions

25735. “Gas appliance” means any new residential-type furnace, air conditioner, heater, refrigerator, stove, range, dishwasher, dryer, decorative fireplace log, or other similar device, except a water heater, which uses a gaseous fuel for operation and is automatically ignited.

25736. “Pilot light” means any gas operated device that remains continually operated or lighted in order to ignite a gas appliance to begin normal operation.

25737. “Intermittent ignition device” means an ignition device which is actuated only when the gas appliance is in operation.

25738. As used in this chapter, the following terms have the following meaning:

(a) “Person” means any individual, partnership, corporation, limited liability company, association, manufacturer, distributor, retailer, contractor or builder as defined in Section 7026 of the Business and Professions Code, or other group, however organized, who sells or causes to be distributed or installed, any new gas appliance as defined in Section 25735.

(b) “Manufacturer” means any individual, partnership, corporation, association, or other legal relationship which manufactures, assembles, produces, or gathers consumer goods.

1 (c) “Distributor” means any individual, partnership,
2 corporation, association or other legal relationship which
3 stands between the manufacturer and the retail seller in
4 purchases, consignments or contracts for sale of
5 consumer goods.

6 (d) “Retail seller,” “retail outlet,” “seller,” or
7 “retailer” means any individual, partnership,
8 corporation, association, or other legal relationship which
9 engages in the business of selling new goods to retail
10 buyers.

11 (e) “Contractor” for purposes of this chapter is
12 synonymous with the term “builder” and, within the
13 meaning of this chapter, a contractor is any person who
14 undertakes to or offers to undertake to or purports to
15 have the capacity to undertake to or submits a bid to, or
16 does himself or by or through others, construct, alter,
17 repair, add to, subtract from, improve, move, wreck or
18 demolish any building, highway, road, parking facility,
19 railroad, excavation or other structure, project,
20 development or improvement, or to do any part thereof,
21 including the erection of scaffolding or other structures
22 or works in connection therewith. The term “contractor”
23 includes subcontractor and specialty contractor.

24

25 Article 2. General Provisions

26

27 25745. No new residential-type gas appliance that is
28 equipped with a pilot light shall be sold in the state after
29 an alternate means has been certified by the department.
30 This prohibition shall become operative 24 months after
31 an intermittent ignition device has been demonstrated
32 and certified by the department as an alternate means.
33 The department may determine, after demonstration,
34 that there is no feasible alternative means to the use of
35 pilot light or that the use of a pilot light is necessary for
36 public health and safety.

37 25746. Notwithstanding the prohibition contained in
38 Section 25745, any swimming pool heater with a pilot light
39 which was manufactured prior to February 24, 1984, and
40 in stock or on order as of that date, may be sold in this state



1 prior to December 1, 1984. On or after December 1, 1984,
2 no swimming pool heater may be sold or offered for sale,
3 unless it is equipped with an intermittent ignition device
4 or is designed to burn only liquefied petroleum gases.

5 25747. On or before January 1, 1976, the former State
6 Energy Resources Conservation and Development
7 Commission was required to develop, in cooperation with
8 affected industry and consumer representatives, who
9 were designated as such representatives by the former
10 commission, the specifications for certification of
11 intermittent ignition devices which shall not significantly
12 affect the price of gas appliances in competition with
13 similar electrical appliances. The specification shall be
14 developed so as to result in the conservation of primary
15 energy resources, shall include provisions necessary for
16 public health and safety, and shall give due consideration
17 to the initial costs, including installation and maintenance
18 costs imposed upon the consumer.

19 25748. Within 90 days after an intermittent ignition
20 device has been certified by the department, the
21 department shall notify all gas appliance manufacturers
22 doing business in the state, as to the prohibition of
23 affected pilot lights and shall inform the manufacturers of
24 the devices available to comply with this article.

25 25749. The department shall create a seal of
26 certification and shall distribute the seal to every
27 manufacturer that complies with this article. The seal
28 shall be affixed to every new appliance sold in the state.

29 25750. After 24 months from the date that an
30 intermittent ignition device has been certified by the
31 department, no person shall sell or offer for sale in this
32 state any new gas appliances, as defined in Section 25735,
33 without obtaining the proper seal of certification from
34 the department, unless the department otherwise
35 permits that action. Beginning 24 months from the date
36 that an intermittent ignition device has been certified by
37 the department, no city or county, city and county, or
38 state agency shall issue a permit for any building to be
39 equipped with any new gas appliance, as defined in
40 Section 23735, unless the building permit shows that the

1 gas appliance complies with this chapter. However, any
2 new gas appliance which does not comply with this
3 chapter may be installed if the appliance was purchased
4 pursuant to a contract executed prior to June 17, 1978, and
5 if the building permit was approved prior to July 8, 1978.

6 25751. After 24 months from the date that an
7 intermittent ignition device has been certified by the
8 department, the department shall make periodic
9 inspections of manufacturers and distributors of gas
10 appliances and may inspect retail outlets, including gas
11 appliances that have been or are to be installed by
12 contractors or builders at building sites to determine their
13 compliance with this article.

14 25752. (a) Any person who violates or proposes to
15 violate this chapter may be enjoined by any court of
16 competent jurisdiction. The court may make such orders
17 or judgments, including the appointment of a receiver, as
18 may be necessary to prevent the use or employment by
19 any person of any practices which violate this chapter, or
20 which may be necessary to restore to any person in
21 interest any money or property, real or personal, which
22 may have been acquired by means of any practice which
23 violates any provision of this chapter.

24 (b) Any action for an injunction under this section
25 may be prosecuted by the Attorney General or any
26 district attorney, county counsel, city attorney, or city
27 prosecutor in this state in the name of the people of the
28 State of California upon his or her own complaint or upon
29 the complaint of any board, officer, person, corporation
30 or association or by any person acting for the interests of
31 itself, its members or the general public.

32 25753. (a) Any person who violates any provision of
33 this chapter shall be liable for a civil penalty not to exceed
34 two thousand five hundred dollars (\$2,500) for each
35 violation, which shall be assessed and recovered in a civil
36 action brought in the name of the people of the State of
37 California by the Attorney General or by any district
38 attorney, county counsel, or city attorney in any court of
39 competent jurisdiction.

(b) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer. If brought by a district attorney or county counsel, the entire amount of penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county and one-half to the city.

(c) If the action is brought at the request of the department, the court shall determine the reasonable expenses incurred by the department in the investigation and prosecution of the action.

(d) Before any penalty collected is paid out pursuant to subdivision (b), the amount of any reasonable expenses incurred by the department shall be paid to the Treasurer.

25754. Any inspector appointed or authorized by the department shall have access to the premises, equipment, materials, partly finished and finished articles, and records of any person subject to the provisions of this chapter.

CHAPTER 29. SOLAR SHADE CONTROL

25760. This chapter shall be known, and may be cited, as the Solar Shade Control Act. It is the policy of the state to promote all feasible means of energy conservation and all feasible uses of alternative energy supply sources. In particular, the state encourages the planting and maintenance of trees and shrubs to create shading, moderate outdoor temperatures, and provide various economic and aesthetic benefits. However, there are certain situations in which the need for widespread use of alternative energy devices, such as solar collectors, requires specific and limited controls on trees and shrubs.

25761. As used in this chapter, “solar collector” means a fixed device, structure, or part of a device or structure, which is used primarily to transform solar energy into

1 thermal, chemical, or electrical energy. The solar
2 collector shall be used as part of a system which makes use
3 of solar energy for any or all of the following purposes:
4 (1) water heating, (2) space heating or cooling, and
5 (3) power generation.

6 25762. After January 1, 1979, no person owning, or in
7 control of, property shall allow a tree or shrub to be
8 placed, or, if placed, to grow on the property, subsequent
9 to the installation of a solar collector on the property of
10 another so as to cast a shadow greater than 10 percent of
11 the collector absorption area upon that solar collector
12 surface on the property of another at any one time
13 between the hours of 10 a.m. and 2 p.m., local standard
14 time; provided, that this section shall not apply to specific
15 trees and shrubs which at the time of installation of a solar
16 collector or during the remainder of that annual solar
17 cycle cast a shadow upon that solar collector. For
18 purposes of this chapter, the location of a solar collector
19 is required to comply with the local building and setback
20 regulations, and to be set back not less than five feet from
21 the property line, and not less than 10 feet above the
22 ground. A collector may be less than 10 feet in height only
23 if, in addition to the five feet setback, the collector is set
24 back three times the amount lowered.

25 25763. Every person who maintains any tree or shrub
26 or permits any tree or shrub to be maintained in violation
27 of Section 25762 upon property owned by that person and
28 every person leasing the property of another who
29 maintains any tree or shrub or permits any tree or shrub
30 to be maintained in violation of Section 25762 after
31 reasonable notice in writing from a district attorney or
32 city attorney or prosecuting attorney, to remove or alter
33 the tree or shrub so that there is no longer a violation of
34 Section 25762, has been served upon the person, is guilty
35 of a public nuisance as defined in Sections 370 and 371 of
36 the Penal Code and in Section 3480 of the Civil Code. For
37 purposes of this chapter, a violation is hereby deemed an
38 infraction. The complainant shall establish to the
39 satisfaction of the prosecutor that the violation has
40 occurred prior to the prosecutor's duty to issue the

1 abatement notice. For the purpose of this section,
2 “reasonable notice” means 30 days from receipt of the
3 notice. Upon expiration of the 30-day period, the
4 complainant shall file an affidavit with the prosecutor
5 alleging that the nuisance has not been abated if the
6 complainant wishes to proceed with the action. The
7 existence of a violation for each and every day after the
8 service of the notice shall be deemed a separate and
9 distinct offense, and it is hereby made the duty of the
10 district attorney, or the city attorney of any city, the
11 charter of which imposes the duty upon the city attorney
12 to prosecute state infractions, to prosecute all persons
13 guilty of violating this section by continuous prosecutions
14 until the violation is corrected. Each and every violation
15 of this section shall be punishable by a fine not to exceed
16 one thousand dollars (\$1,000).

17 25764. Nothing in this chapter shall apply to trees
18 planted, grown, or harvested on timberland as defined in
19 Section 4526 or on land devoted to the production of
20 commercial agricultural crops. Nothing in this chapter
21 shall apply to the replacement of a tree or shrub which
22 had been growing prior to the installation of a solar
23 collector and which, subsequent to the installation of such
24 solar collector, dies.

25 25765. Any city, or for unincorporated areas, any
26 county, may adopt, by majority vote of the governing
27 body, an ordinance exempting their jurisdiction from the
28 provisions of this chapter. The adoption of such an
29 ordinance shall not be subject to Division 13
30 (commencing with Section 21000).

31 25766. Any person who plans a passive or natural solar
32 heating system or cooling system or heating and cooling
33 system which would impact on an adjacent active solar
34 system may seek equitable relief in a court of competent
35 jurisdiction to exempt such system from the provisions of
36 this chapter. The court may grant such an exemption
37 based on a finding that the passive or natural system
38 would provide a demonstrably greater net energy savings
39 than the active system which would be impacted.

1 SEC. 103. Section 26002 of the Public Resources Code
2 is amended to read:

3 26002. (a) It is the purpose of this division to carry out
4 and make effective the findings of the Legislature
5 pursuant to Sections ~~25004, 25004.2, 25004.3, 25007~~ 25001.5,
6 25001.6, 25001.7, 25002.1, and 26001, and to that end to
7 provide industry within this state with an alternative
8 method of financing in providing and promoting the
9 establishment of both of the following:

10 (1) Facilities utilizing alternative methods and sources
11 of energy.

12 (2) Facilities needed for the development and
13 commercialization of advanced transportation
14 technologies.

15 (b) The Legislature hereby finds and declares that the
16 facilities specified in subdivision (a) are necessary to
17 meet the energy and transportation needs of this state
18 and to guarantee the health and welfare of the citizens of
19 this state.

20 SEC. 104. Section 26003 of the Public Resources Code
21 is amended to read:

22 26003. As used in this division, unless the context
23 otherwise requires:

24 (a) "Authority" means the California Alternative
25 Energy and Advanced Transportation Financing
26 Authority established pursuant to Section 26004, and any
27 board, commission, department, or officer succeeding to
28 the functions of the authority, or to which the powers
29 conferred upon the authority by this division shall be
30 given.

31 (b) "Cost" as applied to a project or portion thereof
32 financed under this division means all or any part of the
33 cost of construction and acquisition of all lands, structures,
34 real or personal property or an interest therein, rights,
35 rights-of-way, franchises, easements, and interests
36 acquired or used for a project; the cost of demolishing or
37 removing any buildings or structures on land so acquired,
38 including the cost of acquiring any lands to which those
39 buildings or structures may be moved; the cost of all
40 machinery, equipment, and furnishings, financing

1 charges, interest prior to, during, and for a period after,
2 completion of construction as determined by the
3 authority; provisions for working capital; reserves for
4 principal and interest and for extensions, enlargements,
5 additions, replacements, renovations, and
6 improvements; the cost of architectural, engineering,
7 financial, accounting, auditing and legal services, plans,
8 specifications, estimates, administrative expenses, and
9 other expenses necessary or incident to determining the
10 feasibility of constructing any project or incident to the
11 construction, acquisition, or financing of any project.

12 (c) “Participating party” means any city, county,
13 person, company, corporation, partnership, firm, or other
14 entity or group of entities engaged in operations within
15 this state which require financing pursuant to the terms
16 of this division to aid and assist in the promotion of
17 alternative energy sources or advanced transportation
18 technologies in the state.

19 (d) (1) “Alternative sources” means the application
20 of cogeneration technology, as defined in Section ~~25134~~
21 *25011*; the conservation of energy; or the use of solar,
22 biomass, wind, geothermal, hydroelectricity under 30
23 megawatts, or any other source of energy, the efficient
24 use of which will reduce the use of fossil and nuclear fuels.

25 (2) “Alternative sources” does not include any
26 hydroelectric facility that does not meet state laws
27 pertaining to the control, appropriation, use, and
28 distribution of water, including, but not limited to, the
29 obtaining of applicable licenses and permits.

30 (e) “Advanced transportation technologies” means
31 emerging commercially competitive
32 transportation-related technologies identified by the
33 authority as capable of creating long-term, high
34 value-added jobs for Californians while enhancing the
35 state’s commitment to energy conservation, pollution
36 reduction, and transportation efficiency. Those
37 technologies may include, but are not limited to, any of
38 the following:

39 (1) Intelligent vehicle highway systems.

40 (2) Advanced telecommunications for transportation.

1 (3) Command, control, and communications for
2 public transit vehicles and systems.

3 (4) Electric vehicles and ultra-low emission vehicles.

4 (5) High-speed rail and magnetic levitation passenger
5 systems.

6 (6) Fuel cells.

7 (f) “Project” means any land, building, improvement
8 thereto, rehabilitation, work, property, or structure, real
9 or personal, stationary or mobile, including, but not
10 limited to, machinery and equipment, whether or not in
11 existence or under construction, that utilizes, or is
12 designed to utilize, an alternative source, or that is
13 utilized for the design, technology transfer, manufacture,
14 production, assembly, distribution, or service of advanced
15 transportation technologies.

16 (g) “Revenue” means all rents, receipts, purchase
17 payments, loan repayments, and all other income or
18 receipts derived by the authority from the sale, lease, or
19 other disposition of alternative source or advanced
20 transportation technology facilities, or the making of
21 loans to finance alternative source or advanced
22 transportation technology facilities, and any income or
23 revenue derived from the investment of any money in
24 any fund or account of the authority.

25 (h) “Public agency” means any federal or state
26 agency, board, or commission, or any county, city and
27 county, city, regional agency, public district, or other
28 political subdivision.

29 SEC. 105. Section 26004 of the Public Resources Code
30 is amended to read:

31 26004. (a) There is in the state government the
32 California Alternative Energy and Advanced
33 Transportation Financing Authority. The authority
34 constitutes a public instrumentality and the exercise by
35 the authority of powers conferred by this division is the
36 performance of an essential public function.

37 (b) The authority shall consist of five members, as
38 follows:

39 (1) The Director of Finance.

1 (2) The ~~Chairperson of the State Energy Resources~~
2 ~~Conservation and Development Commission~~ *Director of*
3 *Energy and Conservation*.

4 (3) The President of the Public Utilities Commission.

5 (4) The Controller.

6 (5) The Treasurer, who shall serve as the chairperson
7 of the authority.

8 (c) The members listed in paragraphs (1) to (5),
9 inclusive, of subdivision (b) may each designate a deputy
10 or clerk in his or her agency to act for and represent the
11 member at all meetings of the authority.

12 (d) The first meeting of the authority shall be
13 convened by the Treasurer.

14 SEC. 106. Section 30264 of the Public Resources Code
15 is amended to read:

16 30264. Notwithstanding any other provision of this
17 division except subdivisions (b) and (c) of Section 30413,
18 new or expanded thermal electric generating plants may
19 be constructed in the coastal zone if the proposed coastal
20 site has been determined by the ~~State Energy Resources~~
21 ~~Conservation and Development Commission~~ *State*
22 *Energy Facilities Siting Board* to have greater relative
23 merit pursuant to the provisions of Section ~~25516.4~~ *25426*,
24 than available alternative sites and related facilities for an
25 applicant's service area which have been determined to
26 be acceptable pursuant to the provisions of Section ~~25516~~
27 *25425*.

28 SEC. 107. Section 30265.5 of the Public Resources
29 Code is amended to read:

30 30265.5. (a) The Governor, or the Governor's
31 designee, shall coordinate activities concerning the
32 transport and refining of offshore oil. Coordination efforts
33 shall consider public health risks, the ability to achieve
34 short- and long-term air emission reduction goals, the
35 potential for reducing California's vulnerability and
36 dependence on oil imports, economic development and
37 jobs, and other factors ~~deemed~~ *determined to be*
38 important by the Governor, or the Governor's designee.

39 (b) The Governor, or the Governor's designee, shall
40 work with state and local agencies, and the public, to

1 facilitate the transport and refining of offshore oil in a
2 manner which will promote the greatest public health
3 and environmental and economic benefits to the people
4 of the state.

5 (c) The Governor, or the Governor's designee, shall
6 consult with any individual or organization having
7 knowledge in this area, including, but not limited to,
8 representatives from the following:

9 ~~(1) State Energy Resources Conservation and~~
10 ~~Development Commission~~ *Department of Energy and*
11 *Conservation.*

12 (2) State Air Resources Board.

13 (3) California Coastal Commission.

14 (4) Department of Fish and Game.

15 (5) State Lands Commission.

16 (6) Public Utilities Commission.

17 (7) Santa Barbara County.

18 (8) Santa Barbara County Air Pollution Control
19 District.

20 (9) Southern California Association of Governments.

21 (10) South Coast Air Quality Management District.

22 (11) Oil industry.

23 (12) Public interest groups.

24 (13) United States Department of the Interior.

25 (14) United States Department of Energy.

26 (15) United States Environmental Protection Agency.

27 (16) National Oceanic and Atmospheric
28 Administration.

29 (17) United States Coast Guard.

30 (d) This act is not intended, and shall not be construed,
31 to decrease, duplicate, or supersede the jurisdiction,
32 authority, or responsibilities of any local government, or
33 any state agency or commission, to discharge its
34 responsibilities concerning the transportation and
35 refining of oil.

36 SEC. 108. Section 30404 of the Public Resources Code
37 is amended to read:

38 30404. (a) The commission shall periodically, in the
39 case of the ~~State Energy Resources Conservation and~~
40 ~~Development Commission~~ *Department of Energy and*

1 *Conservation*, the State Board of Forestry, the State
2 Water Resources Control Board and the California
3 regional water quality control boards, the State Air
4 Resources Board and air pollution control districts *and air*
5 *quality management districts*, the Department of Fish
6 and Game, the Department of Parks and Recreation, the
7 Department of Boating and Waterways, the Division of
8 Mines and Geology, the Division of Oil ~~and~~ Gas, *and*
9 *Geothermal Resources*, and the State Lands Commission,
10 and may, with respect to any other state agency, submit
11 recommendations designed to encourage it to carry out
12 its functions in a manner consistent with this division. The
13 recommendations may include proposed changes in
14 administrative regulations, rules, and statutes.

15 (b) Each of ~~these~~ *those* state agencies shall review and
16 consider the recommendations and shall, within six
17 months ~~after~~ *from the date of* receipt and, ~~in the event if~~
18 the recommendations are not implemented, report to the
19 Governor and the Legislature its action and reasons
20 therefor. ~~This~~ *That* report shall also include the *state*
21 agency's comments on any legislation that may have been
22 proposed by the commission.

23 SEC. 109. Section 30413 of the Public Resources Code
24 is amended to read:

25 30413. (a) In addition to the provisions set forth in
26 subdivision (f) of Section 30241, and in Sections ~~25302,~~
27 ~~25500, 25507, 25508, 25510, 25514, 25516.1, 25523, and 25526~~
28 ~~25127, 25400, 25412, 25413, 25415, 25421, 25426, 25437, and~~
29 ~~25444,~~ the provisions of this section shall apply to the
30 commission and *to the State—Energy—Resources*
31 ~~Conservation—and—Development—Commission~~ *State*
32 *Energy Facilities Siting Board* with respect to matters
33 within the statutory responsibility of the ~~latter~~ *that board*.

34 (b) The commission shall, prior to January 1, 1978, and
35 after one or more public hearings, designate those
36 specific locations within the coastal zone where the
37 location of a facility as defined in Section ~~25110~~ *25021*
38 would prevent the achievement of the objectives of this
39 division; provided, however, that specific locations that
40 are presently used for such facilities and reasonable

1 expansion thereof shall not be so designated. Each such
2 designation shall include a description of the boundaries
3 of those locations, the objectives of this division which
4 would be so affected, and detailed findings concerning
5 the significant adverse impacts that would result from
6 development of a facility in the designated area. The
7 commission shall consider the conclusions, if any, reached
8 by the ~~State Energy Resources Conservation and~~
9 ~~Development Commission~~ *Department of Energy and*
10 *Conservation* in its most recently ~~promulgated~~ *adopted*
11 comprehensive report issued pursuant to Section ~~25309~~
12 *25136*. The commission shall transmit a copy of its report
13 prepared pursuant to this subdivision to the ~~State Energy~~
14 ~~Resources Conservation and Development Commission~~
15 *Department of Energy and Conservation*.

16 (c) The commission, after it completes its initial
17 designations in 1978, shall, prior to January 1, 1980, and
18 once every two years thereafter until January 1, 1990,
19 revise and update the designations specified in
20 subdivision (b). After January 1, 1990, the commission
21 shall revise and update those designations not less than
22 once every five years. Those revisions shall be effective on
23 January 1, 1980, or on January 1 of the year following
24 adoption of the revisions. The provisions of subdivision
25 (b) shall not apply to any sites and related facilities
26 specified in any notice of intention to file an application
27 for certification filed with the ~~State Energy Resources~~
28 ~~Conservation and Development Commission~~ *State*
29 *Energy Facilities Siting Board* pursuant to Section ~~25502~~
30 *25404* prior to designation of additional locations made by
31 the commission pursuant to this subdivision.

32 (d) Whenever the ~~State Energy Resources~~
33 ~~Conservation and Development Commission~~ *State*
34 *Energy Facilities Siting Board* exercises its siting
35 authority and undertakes proceedings pursuant to ~~the~~
36 ~~provisions of Chapter 6~~ *12* (commencing with Section
37 ~~25500~~ *25400*) of Division 15 with respect to any thermal
38 powerplant or transmission line to be located, in whole or
39 in part, within the coastal zone, the commission shall
40 participate in those proceedings and shall receive from

1 the ~~State Energy Resources Conservation and~~
2 ~~Development Commission~~ *State Energy Facilities Siting*
3 *Board* any notice of intention to file an application for
4 certification of a site and related facilities within the
5 coastal zone. The commission shall analyze each notice of
6 intention and shall, prior to completion of the preliminary
7 report required by Section ~~25510~~ 25416, forward to the
8 ~~State Energy Resources Conservation and Development~~
9 ~~Commission~~ *State Energy Facilities Siting Board* a
10 written report on the suitability of the proposed site and
11 related facilities specified in that notice. The
12 commission's report shall contain a consideration of, and
13 findings regarding, all of the following:

14 (1) The compatibility of the proposed site and related
15 facilities with the goal of protecting coastal resources.

16 (2) The degree to which the proposed site and related
17 facilities would conflict with other existing or planned
18 coastal-dependent land uses at or near the site.

19 (3) The potential adverse effects that the proposed
20 site and related facilities would have on aesthetic values.

21 (4) The potential adverse environmental effects on
22 fish and wildlife and their habitats.

23 (5) The conformance of the proposed site and related
24 facilities with certified local coastal programs in those
25 jurisdictions which would be affected by any such
26 development.

27 (6) The degree to which the proposed site and related
28 facilities could reasonably be modified so as to mitigate
29 potential adverse effects on coastal resources, minimize
30 conflict with existing or planned coastal-dependent uses
31 at or near the site, and promote the policies of this
32 division.

33 (7) Such other matters as the commission deems
34 appropriate and necessary to carry out this division.

35 (e) The commission may, at its discretion, participate
36 fully in other proceedings conducted by the ~~State Energy~~
37 ~~Resources Conservation and Development Commission~~
38 *State Energy Facilities Siting Board* pursuant to its
39 powerplant siting authority. ~~In the event~~ *If* the
40 commission participates in any public hearings held by

1 the ~~State Energy Resources Conservation and~~
2 ~~Development Commission~~ *State Energy Facilities Siting*
3 *Board*, ~~it~~ the commission shall be afforded full
4 opportunity to present evidence and examine and
5 cross-examine witnesses.

6 (f) The ~~State Energy Resources Conservation and~~
7 ~~Development Commission~~ *Department of Energy and*
8 *Conservation* shall forward a copy of all reports it
9 distributes pursuant to Sections ~~25302~~ 25127 and ~~25306~~
10 25131 to the commission and the commission shall, with
11 respect to any report that relates to the coastal zone or
12 coastal zone resources, comment on those reports, and
13 shall in its comments include a discussion of the
14 desirability of particular areas within the coastal zone as
15 designated in ~~such~~ the reports for potential powerplant
16 development. The commission may propose alternate
17 areas for powerplant development within the coastal
18 zone and shall provide detailed findings to support the
19 suggested alternatives.

20 SEC. 110. Section 36300 of the Public Resources Code
21 is amended to read:

22 36300. The Ocean Resources Task Force is hereby
23 created in state government. The task force is comprised
24 of the following or their designee: the Secretary of
25 Environmental Affairs, the Secretary of the Resources
26 Agency, the Secretary of the Trade and Commerce
27 Agency, the State Director of Health Services, the
28 Secretary of the Business, Transportation and Housing
29 Agency, the Chairperson or Executive Officer of the
30 State Lands Commission as determined by the
31 commission, the Chairperson or Executive Director of
32 the California Coastal Commission as determined by the
33 commission, the Chairperson or Executive Officer of the
34 Coastal Conservancy as determined by the conservancy,
35 the Chairperson or Executive Director of the San
36 Francisco Bay Conservation and Development
37 Commission as determined by the commission, the
38 Director of *Energy and Conservation*, the Director of
39 Fish and Game, the Director of Boating and Waterways,
40 the Director of Parks and Recreation, the Chairperson of

1 the Mining and Geology Board, the Chairperson or
2 Executive Director of the State Water Resources Control
3 Board as determined by the board, the Executive Officer
4 of each California regional water quality control board for
5 a coastal region, the Director of Finance, ~~the Chairperson~~
6 ~~or Executive Director of the State Energy Resources~~
7 ~~Conservation and Development Commission as~~
8 ~~determined by the commission~~, the Chairperson of the
9 State Air Resources Board, the Chairperson of the Senate
10 Committee on Natural Resources and Wildlife, the
11 Chairperson of the Assembly Natural Resources
12 Committee, the President of the University of California,
13 the Chancellor of the California State University, and the
14 Director of the California Sea Grant program.

15 SEC. 111. Section 701.1 of the Public Utilities Code is
16 amended to read:

17 701.1. (a) The Legislature finds and declares that, in
18 addition to other ratepayer protection objectives, a
19 principal goal of electric and natural gas utilities' resource
20 planning and investment shall be to minimize the cost to
21 society of the reliable energy services that are provided
22 by natural gas and electricity, and to improve the
23 environment and to encourage the diversity of energy
24 sources through improvements in energy efficiency and
25 development of renewable energy resources, such as
26 wind, solar, biomass, and geothermal energy.

27 (b) The Legislature further finds and declares that, in
28 addition to any appropriate investments in energy
29 production, electrical and natural gas utilities should seek
30 to exploit all practicable and cost-effective conservation
31 and improvements in the efficiency of energy use and
32 distribution that offer equivalent or better system
33 reliability, and which are not being exploited by any other
34 entity.

35 (c) In calculating the cost effectiveness of energy
36 resources, including conservation and load management
37 options, the commission shall include, in addition to other
38 ratepayer protection objectives, a value for any costs and
39 benefits to the environment, including air quality. The
40 commission shall ensure that any values it develops

1 pursuant to this section are consistent with values
2 developed by the ~~State Energy Resources Conservation~~
3 ~~and Development Commission~~ *Department of Energy*
4 *and Conservation* pursuant to Section ~~25000.4~~ 25001 of the
5 Public Resources Code. However, if the commission
6 determines that a value developed pursuant to this
7 subdivision is not consistent with a value developed by
8 the ~~State Energy Resources Conservation and~~
9 ~~Development Commission~~ *Department of Energy and*
10 *Conservation* pursuant to subdivision (c) of Section
11 ~~25000.4~~ 25001 of the Public Resources Code, the
12 commission may nonetheless use this value if, in the
13 appropriate record of its proceedings, it states its reasons
14 for using the value it has selected.

15 (d) (1) In determining the emission values associated
16 with the current operating capacity of existing electric
17 powerplants pursuant to subdivision (c), the commission
18 shall adhere to the following protocol in determining
19 values for air quality costs and benefits to the
20 environment. If the commission finds that an air pollutant
21 that is subject to regulation is a component of residual
22 emissions from an electric powerplant and that the owner
23 of that powerplant is either of the following:

24 ~~(1)–~~

25 (A) Using a tradable emission allowance, right, or
26 offset for that pollutant, which (A) has been approved by
27 the air quality district regulating the powerplant, (B) is
28 consistent with federal and state law, and (C) has been
29 obtained, authorized, or acquired in a market-based
30 system.

31 ~~(2)–~~

32 (B) Paying a tax per measured unit of that pollutant.

33 (2) The commission shall not assign a value or cost to
34 that residual pollutant for the current operating capacity
35 of that powerplant because the alternative protocol for
36 dealing with the pollutant operates to internalize its cost
37 for the purpose of planning for and acquiring new
38 generating resources.

39 (e) (1) The values determined pursuant to
40 subdivision (c) to represent costs and benefits to the

environment shall not be used by the commission, in and of themselves, to require early decommissioning or retirement of an electric utility powerplant that complies with applicable prevailing environmental regulations.

(2) Further, the environmental values determined pursuant to subdivision (c) shall not be used by the commission in a manner which, when such values are aggregated, will result in advancing an electric utility's need for new powerplant capacity by more than 15 months.

(f) This subdivision shall apply whenever a powerplant bid solicitation is required by the commission for an electric utility and a portion of the amount of new powerplant capacity, which is the subject of the bid solicitation, is the result of the commission's use of environmental values to advance that electric utility's need for new powerplant capacity in the manner authorized by paragraph (2) of subdivision (e). The affected electric utility may propose to the commission any combination of alternatives to that portion of the new powerplant capacity that is the result of the commission's use of environmental values as authorized by paragraph (2) of subdivision (c). The commission shall approve an alternative in place of the new powerplant capacity if it finds all of the following:

(1) The alternative has been approved by the relevant air quality district.

(2) The alternative is consistent with federal and state law.

(3) The alternative will result in needed system reliability for the electric utility at least equivalent to that which would result from bidding for new powerplant capacity.

(4) The alternative will result in reducing system operating costs for the electric utility over those which would result from the process of bidding for new powerplant capacity.

(5) The alternative will result in equivalent or better environmental improvements at a lower cost than would result from bidding for new powerplant capacity.

(g) No provision of this section shall be construed as requiring an electric utility to alter the dispatch of its powerplants for environmental purposes.

(h) No provision of this section shall preclude an electric utility from submitting to the commission any combination of alternatives to meet a commission-identified need for new capacity, if such a submission is otherwise authorized by the commission.

(i) No provision of this section shall be construed to change or alter any provision of commission decision 92-04-045, dated April 22, 1992.

SEC. 112. Section 739.3 of the Public Utilities Code is amended to read:

739.3. (a) Nothing in Section 739 shall prohibit the development of experimental electrical residential rate schedules where the energy component of the rate charged to the customers paying the experimental rate decreases as consumption increases, if the utility demonstrates and the commission finds that the consumption pattern of those participating customers causes the energy costs of the utility to decrease as consumption increases. Revenues foregone from participating customers as a result of the experimental rate schedule shall not be recovered from other customers.

(b) This section is applicable only within extreme climatic zones 15 and 16, as defined by the ~~State Energy Resources Conservation and Development Commission~~ *Department of Energy and Conservation*, and that are located within the service territory of the Southern California Edison Company, and only for residential customers who purchase and install high-efficiency heating or cooling equipment for whom the Southern California Edison Company demonstrates and the commission finds that the consumption pattern of those participating customers causes the energy costs of the utility to decrease as consumption increases.

(c) Nothing in this section shall cause any changes to the baseline quantities or rates established for these climatic zones.

1 (d) This section shall remain in effect only until
2 January 1, 1999, and as of that date is repealed, unless a
3 later enacted statute, which is enacted before January 1,
4 1999, deletes or extends that date.

5 SEC. 113. Section 785 of the Public Utilities Code is
6 amended to read:

7 785. (a) To the extent consistent with federal law and
8 regulation and contractual obligations regarding other
9 available gas, the commission shall, in consultation with
10 the Division of Oil ~~and~~, Gas, *and Geothermal Resources*
11 of the Department of *Energy and Conservation* and with
12 ~~the State Energy Resources Conservation and~~
13 ~~Development Commission~~ *any other officer or employee*
14 *of the Department of Energy and Conservation as to the*
15 *department's energy resources functions*, encourage, as
16 a first priority, the increased production of gas in this
17 state, including gas produced from that area of the Pacific
18 Ocean along the coast of California commonly known as
19 the outer continental shelf, and shall require, after a
20 hearing, every gas corporation to purchase that gas which
21 is compatible with the corporation's gas plant and which
22 is produced in this state having an actual delivered cost,
23 measured in equivalent heat units, equal to or less than
24 other available gas, unless this requirement will result in
25 higher overall costs of gas or other consequences adverse
26 to the interests of gas customers.

27 (b) The commission shall annually report to the
28 Legislature on its implementation of this section.

29 SEC. 114. Section 1822 of the Public Utilities Code is
30 amended to read:

31 1822. (a) Any computer model that is the basis for
32 any testimony or exhibit in a hearing or proceeding
33 before the commission shall be available to, and subject
34 to verification by, the commission and parties to the
35 hearing or proceedings to the extent necessary for
36 cross-examination or rebuttal, subject to applicable rules
37 of evidence, except that verification is not required for
38 any electricity demand model or forecast prepared by the
39 ~~State Energy Resources Conservation and Development~~
40 ~~Commission~~ *Department of Energy and Conservation*

1 pursuant to Section ~~25309~~ 25136 or ~~25402.1~~ 25205 of the
2 Public Resources Code and approved and adopted after
3 a hearing during which testimony was offered subject to
4 cross-examination. The commission shall afford each of
5 these electricity demand models or forecasts the
6 evidentiary weight it determines appropriate. Nothing in
7 this subdivision requires the ~~State Energy Resources~~
8 ~~Conservation and Development Commission~~
9 *Department of Energy and Conservation* to approve or
10 adopt any electricity demand model or forecast.

11 (b) Any testimony presented in a hearing or
12 proceeding before the commission that is based in whole,
13 or in part, on a computer model shall include a listing of
14 all the equations and assumptions built into the model.

15 (c) Any data base that is used for any testimony or
16 exhibit in a hearing or proceeding before the commission
17 shall be reasonably accessible to the commission staff and
18 parties to the hearing or proceeding to the extent
19 necessary for cross-examination or rebuttal, subject to
20 applicable rules of evidence, as applied in commission
21 proceedings.

22 (d) The commission shall adopt rules and procedures
23 to meet the requirements specified in subdivisions (a),
24 (b), and (c). These rules shall include procedural
25 safeguards that protect data bases and models not owned
26 by the public utility.

27 (e) The commission shall establish appropriate
28 procedures for determining the appropriate level of
29 compensation for a party's access.

30 (f) Each party shall have access to the computer
31 programs and models of each other party to the extent
32 provided by Section 1822. The commission shall not
33 require a utility to provide a remote terminal or other
34 direct physical link to the computer systems of a utility to
35 a third party.

36 (g) The commission shall verify, validate, and review
37 the computer models of any electric corporation that are
38 used for the purpose of planning, operating, constructing,
39 or maintaining the corporation's electricity transmission

1 system, and that are the basis for testimony and exhibits
2 in hearings and proceedings before the commission.

3 (h) The transmission computer models shall be
4 available to, and subject to verification by, each party to
5 a commission proceeding in accordance with subdivision
6 (a) of Section 1822, and regulations adopted pursuant to
7 subdivision (d) of Section 1822.

8 SEC. 115. Section 9202 of the Public Utilities Code is
9 amended to read:

10 9202. (a) Commencing on or before March 1, 1985,
11 the commission and the ~~State Energy Resources~~
12 ~~Conservation and Development Commission~~
13 *Department of Energy and Conservation* shall
14 participate in a meeting on an annual basis which shall
15 include representatives from all of the following:

16 (1) San Diego Gas and Electric Company.

17 (2) Pacific Gas and Electric Company.

18 (3) Southern California Gas Company.

19 (4) Southern California Edison Company.

20 (b) Invitations for attendance at the meeting may also
21 be issued to the following:

22 (1) Each municipal corporation, municipal utility
23 district, public utility district, and irrigation district which
24 furnishes electricity.

25 (2) The Electric Power Research Institute.

26 (3) The Gas Research Institute.

27 (4) Representatives of consumer or ratepayer
28 organizations as determined by the commission.

29 (c) The chairmanship of each meeting shall be on a
30 rotating basis, alternating among, and selected by, the
31 participants from the San Diego Gas and Electric
32 Company, the Pacific Gas and Electric Company, the
33 Southern California Gas Company, and the Southern
34 California Edison Company.

35 (d) The participants in the meeting shall participate
36 without compensation.

37 SEC. 116. Section 9502 of the Public Utilities Code is
38 amended to read:

39 9502. On or before December 1, 1994, and on a
40 biennial basis thereafter, each publicly owned electric

1 and gas utility shall submit a report to the ~~State Energy~~
2 ~~Resources Conservation and Development Commission~~
3 *Department of Energy and Conservation* describing the
4 status of their low-income weatherization programs
5 required by Sections 9500 and 9501. Thereafter, as part of
6 the biennial conservation report prepared pursuant to
7 Section ~~25401.1~~ 25202 of the Public Resources Code, the
8 commission shall report to the Legislature summarizing
9 publicly owned utility efforts to comply with Sections
10 9500 and 9501.

11 SEC. 117. Section 6480.1 of the Revenue and Taxation
12 Code is amended to read:

13 6480.1. (a) After service of written notification by
14 the board, on the first distribution in this state of motor
15 vehicle fuel subject to the motor vehicle fuel license tax,
16 the distributor shall collect prepayment of retail sales tax
17 from the person to whom the motor vehicle fuel is
18 distributed. The prepayment required to be collected by
19 the distributor constitutes a debt owed by the distributor
20 to this state until paid to the board, until satisfactory proof
21 has been submitted to prove that the retailer of the fuel
22 has paid the retail sales tax to the board, or until a
23 distributor or broker who has consumed the fuel has paid
24 the use tax to the board. Each distributor shall report and
25 pay the prepayment amounts to the board, on a form
26 prescribed by the board, in the period in which the fuel
27 is distributed. On each subsequent distribution of that
28 motor vehicle fuel, each seller, other than the retailer,
29 shall collect from his or her purchaser a prepayment
30 computed using the rate applicable at the time of
31 distribution. Each distributor shall provide his or her
32 purchaser with a receipt or invoice for the collection of
33 the prepayment amounts which shall be separately stated
34 thereon.

35 (b) (1) After service of written notification by the
36 board, the broker shall collect prepayment of the retail
37 sales tax from the person to whom the motor vehicle fuel
38 is transferred. The prepayment required to be collected
39 by the broker constitutes a debt owed by the broker to the
40 state until paid to the board, or until satisfactory proof has



1 been submitted to prove that the retailer of the fuel has
2 paid the tax to the board. Each broker shall provide his or
3 her purchaser with a receipt or invoice for the collection
4 of the prepayment amounts which shall be separately
5 stated thereon.

6 (2) Each broker shall report and pay the prepayment
7 amounts to the board, on a form prescribed by the board,
8 in the period in which the fuel is distributed. The amount
9 of prepayment paid by the broker to his or her vendor
10 shall constitute a credit against the amount of
11 prepayment required to be collected and remitted by the
12 broker to the board.

13 (c) A distributor or broker who pays the prepayment
14 and issues a resale certificate to the seller, but
15 subsequently consumes the fuel, shall be entitled to a
16 credit against his or her sales and use taxes due and
17 payable for the period in which the prepayment was
18 made, provided that he or she reports and pays the use tax
19 to the board on the consumption of that fuel.

20 (d) The amount of a prepayment paid by the retailer
21 or a distributor or broker who has consumed the fuel to
22 the seller from whom he or she acquired the fuel shall
23 constitute a credit against his or her sales and use taxes
24 due and payable for the period in which the distribution
25 was made. Failure of the distributor or broker to report
26 prepayments or the distributor's or broker's failure to
27 comply with any other duty under this article shall not
28 constitute grounds for denial of the credit to the retailer,
29 distributor, or broker, either on a temporary or
30 permanent basis or otherwise. The retailer, distributor, or
31 broker shall be entitled to the credit to the extent of the
32 amount prepaid to his or her supplier as evidenced by
33 purchase documents, invoices, or receipts stating
34 separately the amount of tax prepayment.

35 (e) The rate of the prepayment required to be
36 collected during the period from July 1, 1986, through
37 March 31, 1987, shall be four cents (\$0.04) per gallon of
38 motor vehicle fuel distributed or transferred.

39 (f) On April 1 of each succeeding year, the rate per
40 gallon, rounded to the nearest one-half of one cent, of the

1 required prepayment shall be established by the board
2 based upon 80 percent of the combined state and local
3 sales tax rate established by Sections 6051, 6051.2, 6051.3,
4 and 7202 on the arithmetic average selling price
5 (excluding sales tax) as determined by the ~~State Energy~~
6 ~~Resources Conservation and Development Commission~~
7 *Department of Energy and Conservation*, in its latest
8 publication of the "Quarterly Oil Report," of all grades of
9 gasoline sold through a self-service gasoline station. The
10 board shall make its determination of the rate no later
11 than November 1 of the year prior to the effective date
12 of the new rate. Immediately upon making its
13 determination and setting of the rate, the board shall each
14 year, no later than January 1, notify by mail every
15 distributor, broker, and retailer of motor vehicle fuel. In
16 the event the price of fuel decreases or increases, and the
17 established rate results in prepayments which
18 consistently exceed or are significantly lower than the
19 retailers' sales tax liability, the board may readjust the
20 rate.

21 SEC. 118. Section 17052.11 of the Revenue and
22 Taxation Code is amended to read:

23 17052.11. (a) For each taxable year beginning on or
24 after January 1, 1991, and before January 1, 1996, there
25 shall be allowed as a credit against the amount of "net tax"
26 (as defined in Section 17039) an amount equal to 55
27 percent of the qualified costs paid or incurred by the
28 taxpayer for low-emission motor vehicles or low-emission
29 conversion devices. The credit allowed by this section
30 shall be claimed for the taxable year in which the
31 low-emission conversion device is installed or, in the case
32 of a new low-emission motor vehicle, for the taxable year
33 in which the low-emission motor vehicle is placed in
34 service, and shall not exceed one thousand dollars
35 (\$1,000) per automobile, motorcycle, or two person
36 passenger vehicle, or three thousand five hundred dollars
37 (\$3,500) for a vehicle whose weight is in excess of 5,750
38 pounds.

39 (b) For purposes of this section:

1 (1) “Device” means any apparatus not otherwise
2 required by federal or California law that is designed and
3 installed to convert a new or used motor vehicle to a
4 low-emission motor vehicle as certified by the state board.

5 (2) “Differential cost” means the difference in retail
6 cost between a low-emission motor vehicle and a
7 comparable motor vehicle that is not a low-emission
8 motor vehicle. This amount shall be determined by the
9 ~~State Energy Resources Conservation and Development~~
10 ~~Commission~~ (hereafter referred to as the California
11 ~~Energy Commission~~) *Department of Energy and*
12 *Conservation*, based on information supplied by the
13 taxpayer and subject to the guidelines adopted under
14 subdivision (e).

15 (3) “Low-emission motor vehicle” means a vehicle as
16 defined under Section 39037.05 of the Health and Safety
17 Code.

18 (4) “Qualified costs” means each of the following:

19 (A) The total cost (including installation charges but
20 excluding interest charges) of a device designed and
21 installed to convert a qualified motor vehicle to a
22 low-emission motor vehicle.

23 (B) The differential cost of a new qualified motor
24 vehicle that is equipped from the factory to operate as a
25 low-emission motor vehicle and is certified by the state
26 board to be a low-emission motor vehicle.

27 (C) Fifteen percent of the purchase price of a
28 nonrecreational motor vehicle that is a low-emission
29 motor vehicle intended to be used on private roads,
30 private school campuses, or commercial or industrial
31 worksites in this state.

32 (5) “Qualified motor vehicle” means a motor vehicle,
33 as defined by Section 415 of the Vehicle Code, that is
34 either of the following:

35 (A) A motor vehicle that is intended to be used on
36 public roads and highways and is registered in this state.

37 (B) A nonrecreational motor vehicle that is intended
38 to be used on private roads, private school campuses, or
39 commercial or industrial worksites in this state.

40 (6) “State board” refers to the Air Resources Board.

(c) The taxpayer or partnership shall qualify for the credit after application to and certification by the ~~California Energy Commission~~ *Department of Energy and Conservation* that all of the following conditions are met:

(1) The device or vehicle qualifies for the credit under this section.

(2) Credit allocation is available.

(d) The taxpayer or partnership shall do all of the following:

(1) (A) Apply to the ~~California Energy Commission~~ *Department of Energy and Conservation* for credit allocation and certification.

(B) The application for credit allocation shall include all information that is required by the ~~California Energy Commission~~ *Department of Energy and Conservation*, including, but not limited to, all of the following:

(i) A plan to purchase a device, as defined in subdivision (b), or a vehicle.

(ii) The cost estimates of the device or vehicle.

(2) Notify the ~~California Energy Commission~~ *Department of Energy and Conservation* in a form and manner specified by the ~~California Energy Commission~~ *Department of Energy and Conservation* that the device or vehicle has actually been purchased.

(3) Retain a copy of the certification issued by the ~~California Energy Commission~~ *Department of Energy and Conservation*.

(4) Make the certification available to the Franchise Tax Board upon demand.

(5) The partnership shall disclose in its tax return each year all of the following:

(A) The name of each partner who received a credit allocation.

(B) The partner's social security number or identification number.

(C) The amount of credit allocated to each partner.

(e) The ~~California Energy Commission~~ *Department of Energy and Conservation* shall do all of the following:

1 (1) Establish criteria for allocation of the credit
2 amounts in the case where more than seven hundred fifty
3 thousand dollars (\$750,000) of credits are requested
4 annually.

5 (2) Provide guidelines and criteria for application for
6 credit allocation. These guidelines shall be exempt from
7 Chapter 3.5 (commencing with Section 11340) of Part 1
8 of Division 3 of Title 2 of the Government Code.
9 However, these guidelines shall be adopted by the
10 ~~California Energy Commission~~ *Department of Energy*
11 *and Conservation* at a noticed meeting and after one or
12 more public workshops.

13 (3) Accept applications and issue certificates
14 including the credit amount to which the taxpayer or
15 partnership is entitled.

16 (4) Provide an annual listing to the Franchise Tax
17 Board—~~(preferably, preferably~~ on magnetic tape or other
18 machine-readable form, and in a form and manner
19 agreed upon by the Franchise Tax Board and the
20 ~~California Energy Commission~~) *Department of Energy*
21 *and Conservation*, of the qualified taxpayers or
22 partnerships who were issued the certification and the
23 allowable amount of the credit allocated to each taxpayer
24 or partnership.

25 (f) The taxpayers' social security numbers or
26 identification numbers obtained through the tax credit
27 application and certification process shall be used
28 exclusively for state tax administrative purposes.

29 (g) The "qualified costs" shall be reduced by an
30 amount equal to any amount allowable, for purposes of
31 computing federal income tax, as a credit under Section
32 30 of the Internal Revenue Code, relating to credit for
33 qualified electric vehicles, for the same vehicle.

34 (h) In the case where the credit allowed by this section
35 exceeds the "net tax," the excess may be carried over to
36 reduce the "net tax" in the following year, and
37 succeeding years if necessary, until the credit has been
38 exhausted.

39 (i) The aggregate amount of tax credits granted
40 pursuant to this section and Section 23603 shall not exceed

1 seven hundred fifty thousand dollars (\$750,000) per year.
2 The ~~California Energy Commission~~ *Department of*
3 *Energy and Conservation* shall not authorize any credit
4 if the credit would cause the total amount of credit
5 authorized in any year under the Personal Income Tax
6 Law and the Bank and Corporation Tax Law to exceed
7 seven hundred fifty thousand dollars (\$750,000).

8 (j) The amendments to this section made by the act
9 adding this subdivision shall apply only to each taxable
10 year beginning on or after January 1, 1993.

11 (k) This section shall remain in effect only until
12 December 1, 1996, and as of that date is repealed.

13 SEC. 119. Section 23603 of the Revenue and Taxation
14 Code is amended to read:

15 23603. (a) For each income year beginning on or
16 after January 1, 1991, and before January 1, 1996, there
17 shall be allowed as a credit against the "tax" (as defined
18 by Section 23036) an amount equal to 55 percent of the
19 qualified cost paid or incurred by the taxpayer for
20 low-emission motor vehicles or low-emission conversion
21 devices. The credit allowed by this section shall be
22 claimed for the income year in which the low-emission
23 conversion device is installed or, in the case of a new
24 low-emission motor vehicle, for the income year in which
25 the low-emission motor vehicle is placed in service, and
26 shall not exceed one thousand dollars (\$1,000) per
27 automobile, motorcycle, or two-person passenger
28 vehicle, or three thousand five hundred dollars (\$3,500)
29 for a vehicle whose weight is in excess of 5,750 pounds.

30 (b) For purposes of this section:

31 (1) "Device" means any apparatus not otherwise
32 required by federal or California law that is designed and
33 installed to convert a new or used motor vehicle to a
34 low-emission motor vehicle as certified by the state board.

35 (2) "Differential cost" means the difference in retail
36 cost between a low-emission motor vehicle and a
37 comparable motor vehicle that is not a low-emission
38 motor vehicle. This amount shall be determined by the
39 ~~State Energy Resources Conservation and Development~~
40 ~~Commission~~ (hereafter referred to as the California

1 ~~Energy—Commission~~) *Department of Energy and*
2 *Conservation*, based on information supplied by the
3 taxpayer and subject to the guidelines adopted under
4 subdivision (e).

5 (3) “Low-emission motor vehicle” means a vehicle as
6 defined under Section 39037.05 of the Health and Safety
7 Code.

8 (4) “Qualified costs” means each of the following:

9 (A) The total cost (including installation charges but
10 excluding interest charges) of a device designed and
11 installed to convert a qualified motor vehicle to a
12 low-emission motor vehicle.

13 (B) The differential cost of a new qualified motor
14 vehicle that is equipped from the factory to operate as a
15 low-emission motor vehicle and is certified by the state
16 board to be a low-emission motor vehicle.

17 (C) Fifteen percent of the purchase price of a
18 nonrecreational motor vehicle that is a low-emission
19 motor vehicle intended to be used on private roads,
20 private school campuses, or commercial or industrial
21 worksites in this state.

22 (5) “Qualified motor vehicle” means a motor vehicle,
23 as defined by Section 415 of the Vehicle Code, that is
24 either of the following:

25 (A) A motor vehicle that is intended to be used on
26 public roads and highways and is registered in this state.

27 (B) A nonrecreational motor vehicle that is intended
28 to be used on private roads, private school campuses, or
29 commercial or industrial worksites in this state.

30 (6) “State board” refers to the Air Resources Board.

31 (c) The taxpayer shall qualify for the credit after
32 application to and certification by the ~~California—Energy~~
33 ~~Commission~~ *Department of Energy and Conservation*
34 that all of the following conditions are met:

35 (1) The device or vehicle qualifies for the credit under
36 this section.

37 (2) Credit allocation is available.

38 (d) The taxpayer shall do all of the following:

1 (1) (A) Apply to the ~~California Energy Commission~~
2 *Department of Energy and Conservation* for credit
3 allocation and certification.

4 (B) The application for credit allocation shall include
5 all information that is required by the ~~California Energy~~
6 ~~Commission~~ *Department of Energy and Conservation*,
7 including, but not limited to, all of the following:

8 (i) A plan to purchase a device, as defined in
9 subdivision (b), or a vehicle.

10 (ii) The cost estimates of the device or vehicle.

11 (2) Notify the ~~California Energy Commission~~
12 *Department of Energy and Conservation* in a form and
13 manner specified by the ~~California Energy Commission~~
14 *Department of Energy and Conservation* that the device
15 or vehicle has actually been purchased.

16 (3) Retain a copy of the certification issued by the
17 California Energy Commission.

18 (4) Make the certification available to the Franchise
19 Tax Board upon demand.

20 (5) The S corporation shall disclose in its tax return
21 each year all of the following:

22 (A) The name of each shareholder who received a
23 credit allocation.

24 (B) The shareholder's social security number or
25 identification number.

26 (C) The amount of credit allocated to each
27 shareholder.

28 (e) The ~~California Energy Commission~~ *Department*
29 *of Energy and Conservation* shall do all of the following:

30 (1) Establish criteria for allocation of the credit
31 amounts in the case where more than seven hundred fifty
32 thousand dollars (\$750,000) of credit are requested
33 annually.

34 (2) Provide guidelines and criteria for application for
35 credit allocation. These guidelines shall be exempt from
36 Chapter 3.5 (commencing with Section 11340) of Part 1
37 of Division 3 of Title 2 of the Government Code.
38 However, these guidelines shall be adopted by the
39 ~~California Energy Commission~~ *Department of Energy*

1 *and Conservation* at a noticed meeting and after one or
2 more public workshops.

3 (3) Accept applications and issue certificates
4 including the credit amount to which the taxpayer is
5 entitled.

6 (4) Provide an annual listing to the Franchise Tax
7 Board—~~(preferably, preferably~~ on magnetic tape or other
8 machine-readable form, and in a form and manner
9 agreed upon by the Franchise Tax Board and the
10 ~~California Energy Commission)~~ *Department of Energy*
11 *and Conservation*, of the qualified taxpayers who were
12 issued the certification and the allowable amount of the
13 credit allocated to each taxpayer.

14 (f) The taxpayers' identification numbers obtained
15 through the tax credit application and certification
16 process shall be used exclusively for state tax
17 administrative purposes.

18 (g) The "qualified costs" shall be reduced by an
19 amount equal to any amount allowable, for purposes of
20 computing federal income tax, as a credit under Section
21 30 of the Internal Revenue Code, relating to credit for
22 qualified electric vehicles, for the same vehicle.

23 (h) In the case where the credit allowed by this section
24 exceeds the "tax," the excess may be carried over to
25 reduce the "tax" in the following year, and succeeding
26 years if necessary, until the credit has been exhausted.

27 (i) The aggregate amount of tax credits granted
28 pursuant to this section and Section 17052.11 shall not
29 exceed seven hundred fifty thousand dollars (\$750,000)
30 per year. The ~~California Energy Commission~~
31 *Department of Energy and Conservation* shall not
32 authorize any credit if the credit would cause the total
33 amount of credit authorized in any year under the
34 Personal Income Tax Law and the Bank and Corporation
35 Tax Law to exceed seven hundred fifty thousand dollars
36 (\$750,000).

37 (j) The amendments to this section made by the act
38 adding this subdivision shall apply only to each income
39 year beginning on or after January 1, 1993.

1 (k) This section shall remain in effect only until
2 December 1, 1996, and as of that date is repealed.

3 SEC. 120. Section 40182 of the Revenue and Taxation
4 Code is amended to read:

5 40182. (a) All money deposited in the Energy
6 Resources Surcharge Fund under this part shall, upon
7 order of the Controller, be drawn therefrom and
8 transferred to pay the refunds authorized by this part.
9 The balance shall be transferred to the Energy Resources
10 Programs Account, which is hereby created in the
11 General Fund.

12 (b) It is the intent of the Legislature that the funds in
13 the Energy Resources Programs Account be used for
14 ongoing energy programs and energy projects ~~deemed~~
15 ~~determined to be~~ appropriate by the Legislature,
16 including, but not limited to, the activities of the ~~State~~
17 ~~Energy Resources Conservation and Development~~
18 ~~Commission~~ *Department of Energy and Conservation*.

19 (c) Notwithstanding any other provisions of law to the
20 contrary, all appropriations from the Energy Resources
21 Programs Account shall be made ~~by~~ *in* the annual Budget
22 Act.

23 SEC. 121. Section 5062 of the Vehicle Code is
24 amended to read:

25 5062. (a) This section shall be known, and may be
26 cited, as the Rosenthal Blue Sky License Plate Program.

27 (b) The Legislature hereby finds and declares that
28 CALSTART is a California nonprofit consortium
29 dedicated to the development and commercialization of
30 advanced transportation technologies, including clean
31 fuel vehicles, and that CALSTART should be authorized
32 to undertake a special environmental “Blue Sky” license
33 plate program to facilitate the purchase and use of clean
34 fuel vehicles in the state.

35 (c) CALSTART may, with the approval of the
36 department, participate in this special interest license
37 plate program.

38 (d) CALSTART may, with the approval of the
39 department, develop a distinctive design, in
40 conformance with Section 5060, for inclusion on a special

1 interest license plate. The license plate shall be known as
2 the Blue Sky license plate and shall signify that the vehicle
3 to which it is assigned is a clean fuel vehicle.

4 (e) Any person who owns or leases a clean fuel vehicle,
5 as defined in Section 257, and who applies for an original
6 or renewal registration of that vehicle, may apply,
7 through CALSTART, for a set of Blue Sky license plates
8 in lieu of regular license plates.

9 (f) The Blue Sky license plate is subject to Sections
10 5106 and 5108. The revenues derived from the sale of the
11 license plates shall be deposited in the California
12 Environmental License Plate Fund, after the
13 department has deducted its costs for developing and
14 administering the program.

15 (g) Notwithstanding Section 5060, a Blue Sky license
16 plate may, upon application of the holder, be transferred
17 to another clean fuel vehicle. If the vehicle to which
18 transfer is sought is not a clean fuel vehicle, the plates
19 shall be surrendered to the department.

20 (h) CALSTART, in coordination with the State Air
21 Resources Board, the ~~State Energy Resources~~
22 ~~Conservation and Development Commission~~
23 *Department of Energy and Conservation*, and the Public
24 Utilities Commission, shall undertake efforts to publicize
25 the availability of Blue Sky license plates.

26 (i) Notwithstanding Section 5060, CALSTART shall
27 have 12 months, commencing November 1, 1995, to
28 receive the required applications and to notify the
29 department that the requisite number of applications
30 have been received. If, after that 12-month period, 5,000
31 applications have not been received, CALSTART shall
32 immediately notify the department and refund to all
33 applicants any fees or deposits which have been collected.

34 (j) If, on November 1, 1996, the department has not
35 received a notice from CALSTART pursuant to
36 subdivision (i) or if, on or before that date CALSTART
37 notifies the department that the requisite number of
38 applications have not been received, the department
39 shall provide that information to the Secretary of State,
40 and this section shall become inoperative upon receipt of

1 that information by the Secretary of State, and shall
2 remain in effect only until January 1, 1997, and as of that
3 date is repealed, unless a later enacted statute, which is
4 enacted before January 1, 1997, deletes or extends that
5 date.

6 SEC. 122. The Department of Conservation is hereby
7 renamed the Department of Energy and Conservation,
8 and the Director of Conservation is hereby renamed the
9 Director of Energy and Conservation.

10 SEC. 123. The State Energy Facilities Siting Board is
11 hereby created in the Department of Energy and
12 Conservation.

13 SEC. 124. (a) The California Energy Extension
14 Service of the Office of Planning and Research is hereby
15 abolished.

16 (b) The California Energy Extension Service is hereby
17 created in the Department of Energy and Conservation.

18 SEC. 125. The State Energy Resources Conservation
19 and Development Commission is hereby abolished.

20 SEC. 126. (a) The Department of Energy and
21 Conservation hereby succeeds to, and is vested with, all
22 of the powers, duties, responsibilities, and jurisdiction of
23 the former State Energy Resources Conservation and
24 Development Commission, except as specified in
25 subdivision (c).

26 (b) The California Energy Extension Service of the
27 Department of Energy and Conservation hereby
28 succeeds to, and is vested with, all of the powers, duties,
29 responsibilities, and jurisdiction of the former California
30 Energy Extension Service of the Office of Planning and
31 Research.

32 (c) The State Energy Facilities Siting Board hereby
33 succeeds to, and is vested with, all of the powers, duties,
34 responsibilities, and jurisdiction of the former State
35 Energy Resources Conservation and Development
36 Commission with regard to energy facility and site
37 certification.

38 (d) (1) The Department of Energy and Conservation
39 may use the unexpended balance of funds available for



1 use in connection with the performance of the functions
2 specified in subdivision (a).

3 (2) The California Energy Extension Service of the
4 Department of Energy and Conservation may use the
5 unexpended balance of funds available for use in
6 connection with the performance of the functions
7 specified in subdivision (b).

8 (3) The State Energy Facilities Siting Board may use
9 the unexpended balance of funds available for use in
10 connection with the performance of the functions
11 specified in subdivision (c).

12 SEC. 127. (a) Any officer or employee of the former
13 State Energy Resources Conservation and Development
14 Commission who is engaged in the performance of a
15 function specified in subdivision (a) of Section 126 of this
16 reorganization plan and any officer or employee of the
17 former California Energy Extension Service of the Office
18 of Planning and Research who is engaged in the
19 performance of a function specified in subdivision (b) of
20 Section 126 of this reorganization plan, and who is serving
21 in the state civil service, other than as a temporary
22 employee, shall be transferred to the Department of
23 Energy and Conservation or to the California Energy
24 Extension Service of the Department of Energy and
25 Conservation, as the case may be.

26 (b) Any officer or employee of the former State
27 Energy Resources Conservation and Development
28 Commission who is engaged in the performance of a
29 function specified in subdivision (c) of Section 126 of this
30 reorganization plan and who is serving in the state civil
31 service, other than as a temporary employee, shall be
32 transferred to the State Energy Facilities Siting Board.

33 (c) The status, position, and rights of any officer or
34 employee specified in subdivisions (a) and (b) shall not
35 be affected by the transfer and shall be retained by the
36 person as an officer or employee of the Department of
37 Energy and Conservation, of the California Energy
38 Extension Service of the Department of Energy and
39 Conservation, or of the State Energy Facilities Siting
40 Board, as the case may be, pursuant to the State Civil

1 Service Act (Part 2 (commencing with Section 18500) of
2 Division 5 of Title 2 of the Government Code), except as
3 to a position that is exempt from civil service.

4 SEC. 128. The Department of Energy and
5 Conservation, the California Energy Extension Service of
6 the Department of Energy and Conservation, or the State
7 Energy Facilities Siting Board, as the case may be, shall
8 have possession and control of all records, papers, offices,
9 equipment, supplies, money, funds, appropriations,
10 licenses, permits, agreements, contracts, claims,
11 judgments, lands, and other property, real or personal,
12 connected with the administration of, or held for the
13 benefit or use of, the former State Energy Resources
14 Conservation and Development Commission or the
15 former California Energy Extension Service of the Office
16 of Planning and Research, as the case may be.

17 SEC. 129. (a) Any regulation or other action,
18 adopted, prescribed, taken, or performed by an agency or
19 officer in the administration of a program or the
20 performance of a duty, responsibility, or authorization
21 transferred by this reorganization plan shall remain in
22 effect and shall be deemed to be a regulation or action of
23 the agency or officer to whom the program, duty,
24 responsibility, or authorization is transferred.

25 (b) No suit, action, or other proceeding lawfully
26 commenced by or against any agency or other officer of
27 the state, in relation to the administration of any program
28 or the discharge of any duty, responsibility, or
29 authorization transferred by this reorganization plan,
30 shall abate by reason of the transfer of the program, duty,
31 responsibility, or authorization under this reorganization
32 plan.

33 SEC. 130. Nothing in this reorganization plan shall be
34 construed to restrict the authority of the Department of
35 Energy and Conservation to administratively organize its
36 functions or to provide necessary staff on and after the
37 effective date of this reorganization plan.

38 SEC. 131. Upon the effective date of this
39 reorganization plan, the Department of Finance may
40 direct the transfer of any unexpended balances of



1 appropriations or other funds available for use in
2 connection with any function or agency affected by this
3 reorganization plan that the director determines to be
4 necessary to facilitate the reorganization, for use in
5 connection with the functions affected by the
6 reorganization or for the use of any agency which has
7 those functions after this reorganization plan takes effect,
8 provided that unexpended balances of appropriations so
9 transferred shall be used only for the purpose or purposes
10 for which the appropriation was originally made.

11 SEC. 132. If any provision of this reorganization plan
12 or the application thereof to any person or circumstances
13 is held invalid, that invalidity shall not affect other
14 provisions or applications of this reorganization plan
15 which can be given effect without the invalid provision
16 or application. To that end, the provisions of this
17 reorganization plan are severable.

18 SEC. 133. This reorganization plan shall take effect on
19 January 1, 1996.

